

CALIFORNIA
No. 4042
2
276-430)

1 SUPERIOR COURT OF THE STATE OF
2 FOR THE COUNTY OF SAN DIEGO
3
4 Coordination Proceeding Special Title) JCCP
5 (Rule 1550(b)),)
6)
7 In re Tobacco Cases II)
8 -----) Volume
9 The People of the State of California,) (Pages
10 et al., v. Brown & Williamson Tobacco)
11 Corp., et al. (SF No. 996781),)
12 And)
13 People of the State of California,)
14 et al., v. Philip Morris Inc., et al.)
15 (LA No. BC 194217))
16 -----)
17
18
19 DEPOSITION OF:
20 CHRISTINE LOUISE STEELE
21 THURSDAY, MARCH 16, 2000
22 10:05 A.M.
23 REPORTED BY:
24 SUSAN NELSON
25 CSR No. 3202

276
witness,
A.M.,
Street,
CSR No.

1 Deposition of CHRISTINE LOUISE STEELE, the
2 taken on behalf of the Defendants, at 10:05
3 THURSDAY, MARCH 16, 2000, at 515 South Figueroa
4 Los Angeles, California, before SUSAN NELSON,
5 3202.
6
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1 I N D E X

2 WITNESS EXAMINATION PAGE

3 CHRISTINE LOUISE STEELE

4 By Mr. L'Orange 282

	5			
	6			
	7			
	8			E X H I B I T S
	9	NO.	PAGE	DESCRIPTION
	10	104	282	12/5/97 Letter to Colleen
Stevens				
	11			From Susan Collister with
Media				
	12			Flowcharts (A&P2847-A&P2892)
	13	105	292	California Department of
Health				
	14			Service Recommended Media Plan
	15			Youth/Prevention
	16			(A&P277-A&P2780)
	17	106	297	California Department of
Health				
	18			Services January-June 1993
Media				
	19			Plan General Market
	20			(A&P156-A&P188)
	21	107	317	California Department of
Health				
	22			Services Anti-Smoking Media
	23			Campaign (A&P2744-A&P276)
	24			
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	1			E X H I B I T S
	2	NO.	PAGE	DESCRIPTION
	3	108	322	California Department of
Health				
	4			Services Anti-Smoking Media
	5			Campaign (A&P536-A&P5418)
	6	109	334	2/13/97 Asher/Gould Conference
Report				
	7			(A&P3699-A&P3698)
	8	110	340	California Department of
Health				
	9			Services Tobacco Control Media
	10			Campaign (A&P3720-A&P3737)
	11	111	349	Document entitled
"Advertising"				
	12	112	367	5/18/99 Letter to Chuck Wolfe
	13			from Barry Schoenfeld
	14			(A&P7530-A&P7531)
	15	113	412	Audiotapes
	16	114	414	Print and Outdoor Ads
	17			(114, 114 A through H)
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	20			
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	24			
	25			

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	1	LOS ANGELES, CALIFORNIA; THURSDAY, MARCH 16,		
2000;				
	2	10:05 A.M.		

3
4 CHRISTINE LOUISE STEELE,
5 having been first duly sworn, was
6 examined and testified further as
follows:
7
8 EXAMINATION (CONTINUED)
9 BY MR. L'ORANGE:
10 Q. Miss Steele, good morning. This is a
11 continuation of your deposition. And as we
assured you
12 and your counsel, we will conclude today by
3:00, and we
13 appreciate you coming over for the second day.
14 Just to refresh your recollection, the
15 proceeding that will take place today is going
to be
16 virtually identical to what we did yesterday.
All the
17 admonitions that I gave to you at the outset of
the
18 proceeding yesterday applies and is applicable
today as
19 they did yesterday.
20 Do you have any questions at all --
21 A. No.
22 Q. -- about the admonitions.
23 You have been handed what has been
marked as
24 Exhibit 104.
25 (The document referred to was
marked
282
104 1 by the C.S.R. as Defendants' Exhibit
2 for identification and attached to and
3 made a part of this deposition.)
4 BY MR. L'ORANGE:
5 Q. Could I ask you to just take a moment
and
6 examine the document, then I have some
questions that
7 I'd like to pose to you on it.
8 A. Okay.
9 Q. Okay. This is a December 5, 1997,
letter --
10 cover letter that is being forwarded to Colleen
Stevens.
11 Do you see at the bottom under cc's,
it says
12 "C. Steele"?
13 A. Yes.
14 Q. That would be you, would it not?
15 A. Yes.
16 Q. All right. Were you involved in the
17 preparation of the underlying document, which
is dated
18 December 5, 1997, and is entitled "California
Department
19 of Health Services, Tobacco Control Section,
1993-1997
20 Media Flowcharts and Creative Rotations"?

21 A. No.
22 Q. Was this prepared at your request?
23 A. No.
24 Q. Do you know where the origin of this
document
25 is?

283
Collister
designed
is a
1993 to 1997
that
question?
media that
discussion
going to
minute and
does it
aired
is
say that
carefully

284
aired
the ethnic
out of the
moment to

1 A. Colleen Stevens requested that Sue
2 provide her with this information.
3 Q. Now, is it your understanding what is
4 to be shown in the December 5th, 1997, document
5 summary of all of the media that aired from
6 as well as showing what the rotations were on
7 media?
8 A. What was the first part of your
9 Q. Is this designed to show all of the
10 aired in the time period 1993 to 1997?
11 A. I couldn't say for sure because the
12 was between Colleen and Sue.
13 Q. All right.
14 A. But it appears to indicate that.
15 Q. I didn't mean to cut you off. I was
16 ask you to take a look at the document for a
17 tell me, based on your review of the document,
18 first depict a summary of all of the media that
19 between 1993 and 1997?
20 A. No.
21 Q. Was there more media that aired than
22 depicted in Exhibit 104?
23 A. Yes.
24 Q. Okay. Would it be a fair statement to
25 Exhibit 104 depicts -- and I pick my adjective

1 here -- the vast majority of the media that was
2 between 1993 and 1997?
3 A. It doesn't appear to include all of
4 advertising media that was run.
5 Q. Okay. Anything else that's missing
6 '93 to '97 summary? Other than the --
7 A. It appears that's all that is missing.
8 Q. All right. Now, can I ask you for a
9 look at what is marked as 2849, just for

clarification.

10 Under "Livingston & Company," we see
various
11 categories of TV, and then there seems to be
lists of --
12 of words. What I want to confirm is, where you
see "SS"
13 and, for instance, it says "Kitchen,"
"Bedroom,"
14 "Kitchen," "Industry Spokesman," are these the
names of
15 TV commercials dealing with an antismoking
message?

16 A. I don't know what "SS" refers to.

17 Q. Okay. What about "Kitchen,"

"Bedroom,"

18 "Kitchen," "Industry Spokesman," "Subliminal,"

19 "Personals," "Delivery Room"?

television

20 A. Yes. Those are the names of

21 commercials dealing with antismoking.

for a

22 Q. Okay. Now, let me ask if you would

December

23 moment, please turn to 2851. It's a July to

Advertising"

24 1994 time frame. Says "Asher/Gould

at the

25 top of the page.

285

1 A. Yes.

television,

2 Q. Now, again, you see a breakdown of

3 radio, teen, outdoor.

4 Do you see that on the document?

5 A. Yes.

there

6 Q. Now, beneath "General Public & Youth,"

the dates,

7 appear to be dates, and besides the -- beside

8 again appear to be titles with percentages.

this page

9 Are the dates that are depicted on

advertising would

10 the inclusive dates when antismoking

11 have been aired?

to look

12 A. There are other documents I would need

13 at to determine that.

reason

14 Q. As you sit here today, do you have any

percent,

15 to believe that "Numbers," slash, "Sepia" of 50

on a

16 "Industry Spokesman" 50 percent, was not aired

6th?

17 50/50 basis between September 26th and November

that

18 A. No. That's -- it appears to indicate

19 that's when those were run, at those levels.

-- and

20 Q. Okay. Now, if I may draw you -- and

21 would that be true, to the best of your

knowledge, based
22 on the rest of the entries that we find on 2851
and
23 subsequent pages listing, what appear to be
titles of
24 antismoking commercials with percentages
indicating the
25 rotation?

286

1 A. Would what be true?
2 MR. VANDERET: Object to the question
as vague
3 and ambiguous.
4 THE WITNESS: I agree. Would what be
true?

5 BY MR. L'ORANGE:
6 Q. The description that you just gave me
that 2851
7 appears to depict the inclusive dates when the
8 antismoking commercial "Numbers," slash,
"Sepia" of
9 50 percent, "Industry Spokesman," 50 percent,
would have
10 run. Is that same analysis apply -- true to
the rest of
11 the entries that are reflected in the document?

Again,
12 we're trying to make sure we understand what's
set forth
13 in the document.

14 A. It appears for the dates indicated
that those
15 are the names of the commercials that ran
during those
16 time frames at those levels.

17 Q. Okay. Now, can I draw your attention
back, if
18 you would, please, to the first page we looked
at, 2849.
19 And under the various time breakouts, teen TV,
February,
20 March, and April, do you have any understanding
as to
21 whether "SS" stands for secondhand smoke,
thereby
22 indicating these are secondhand smoke
commercials?

23 A. I would believe that it doesn't
because these
24 aren't all secondhand smoke commercials.

25 Q. Okay. You indicated earlier you
weren't sure

287

1 what it stood for.
2 After looking at the document, has
your
3 recollection been refreshed at all as to what
"SS"
4 means?

5 A. No.

6 Q. Do you know who prepared this

document? I know

7 the cover letter is signed by Sue Collister,
but, to

8 your knowledge, was she involved in the
preparation of

9 the document?

10 A. I'm not sure whether she prepared it
or she had

11 someone else prepare it.

12 Q. Is she still with the agency?

13 A. No.

14 Q. Do you know where she is?

15 A. No, I don't.

16 Q. Now, if I could draw your attention,
please, to

17 the back of the document to page 2889 by the
Bates stamp

18 and ask you to review the chart for just a
moment.

19 Can you tell me what is depicted on
the chart

20 that's entitled "California Department of
Health

21 Services," slash, "Tobacco Control Section,
Media

22 Placement Allocations," July 1994, dash, 1997?

23 A. It appears to indicate the amount of
media

24 placed in the years indicated by medium by
advertising

25 agency.

288

1 Q. Would you agree with me that this is a
summary

2 of the activities covering July of '94 to 1997
by agency

3 and by type of advertising?

4 A. I can't confirm that. I couldn't
guess that.

5 Q. Do you have any reason to disagree
with that

6 characterization?

7 A. Some of the numbers look lower than I
would

8 have anticipated.

9 Q. All right. Now, let me draw your
attention to

10 the footnotes at the bottom, which indicate the
figures

11 reflect media placement buys but do not include
12 production or public relations activities.

13 Would that help you in terms of
accepting that

14 these numbers are a summary of the media
placement

15 allocations for the period of time stated?

16 MR. VANDERET: Objection. Lack of
foundation.

17 THE WITNESS: No.

18 BY MR. L'ORANGE:

19 Q. Okay. Let me ask you to look at the
next page.

October 9, 20 This is a Bates number 2890. This is an
included 21 1997, letter directed to Colleen Stevens.
22 Under the cc's, do you see yourself
23 along with other Asher/Gould personnel?
24 A. Yes.
25 Q. Do you have a recollection of
receiving this
289
1 document?
2 A. No.
3 Q. Do you have a recollection of
reviewing it at
4 any time?
5 A. No.
6 Q. Now, this document appears to be a
7 duplication -- 2891 appears to be a duplication
of 2889.
8 Would you agree with me on that after
examining
9 it?
10 A. It appears.
11 Q. All right. Seeing the document as
part of a
12 second letter with yourself as a cc, does that
refresh
13 your recollection in any way that you would
have seen
14 this information on or about October 5th, 1997?
15 A. I can't remember back what I saw in
1997.
16 Q. Do you have any reason to disagree
with the
17 figures that are set out in Bates number 2891
as part of
18 Exhibit 104?
19 A. Again, they look low to me, based on
what I
20 would have expected.
21 Q. Okay. Now, again, with the caveat
that this
22 appears to depict media placement allocations,
does that
23 influence at all your feeling that the numbers
reflected
24 on this document are low?
25 A. That could be one reason why they're
low but
290
1 not the only reason.
2 Q. What would be the other reasons that
they are
3 low?
4 A. Maybe there's some media cost missing.
Without
5 looking at media plans, it's difficult to tell
whether
6 this is comprehensive or not.
7 Q. All right. Do you have any estimate
for me as

8 to how low you think these numbers -- I'm
sorry.
9 Do you have any estimate as to how --
what the
10 difference is between what you would have
expected
11 versus what is depicted?
12 A. Yesterday I told you the range of
budgets by
13 advertising agency, and, if so, these did not
fall
14 within these ranges. That's why I would expect
these
15 were low.
16 Q. Okay. Now, the ranges you gave me
yesterday
17 would have included production and public
relations
18 costs; would they not?
19 A. I said I didn't know because they were
a range.
20 Q. All right. Let me walk you through
what I'm
21 going to characterize as primary documents, as
opposed
22 to the summary that I showed you, and see
whether or not
23 we can get at the budgetary numbers that way.
24 If I could ask you to take a look at a
25 "California Department of Health Services,

Recommended

291

1 Media Plan for Youth Prevention." I'm going to
2 represent to you this appears to be for the
time period
3 of July 1993 through June of 1994. It's Bates
number
4 commencing 2771.
5 I'm going to ask the court reporter to
mark
6 this next in order, please.
7 (The document referred to was
marked
8 by the C.S.R. as Defendants' Exhibit
105
9 for identification and attached to and
10 made a part of this deposition.)
11 BY MR. L'ORANGE:
12 Q. Now, ma'am, if I can ask you to just
take a
13 moment and review this.
14 A. Okay.
15 Q. Do you recognize -- strike that.
16 Let me ask you to look at the upper
left-hand
17 corner above the word "month."
18 Do you see Livingston & Company?
19 A. Yes.
20 Q. All right. Have you seen recommended
media
21 plans in this format while you were employed at
the

antismoking 22 Livingston & Company agency performing the
23 activities from 1992 to 1994?
24 A. Yes.
25 Q. Have you seen this particular media
plan

292

1 before?
2 A. I don't recall.
3 Q. Seeing it today, does it refresh your
4 recollection in any way that you were involved
in the
5 creation or supervision of this particular
plan?

6 A. Would you rephrase that.
7 Q. Sure.
8 Do you have any recollection of being
involved

9 in the supervision of this particular plan?
10 A. Well, I don't recall seeing this
document, so I
11 don't recall if this was the final plan or
proposed plan

12 or what this sheet represents.
13 Q. Do you have any recollection of a
youth
14 prevention media plan being placed into
operation during
15 the time period July 1993 through June 1994
while you

16 were at Livingston & Company?
17 A. Yes.
18 Q. Now, can I ask you to turn to the
second page.
19 Have you at any time seen this chart
in the

20 past?
21 A. I don't recall seeing it.
22 Q. All right. Have you seen budget
spending
23 charts constructed in a similar fashion while
employed
24 at Livingston & Company in the antismoking
campaign?
25 A. I don't recall.

293

1 Q. All right. Based on your experience
working at
2 Livingston & Company, can you tell me what this
chart

3 depicts?
4 A. It appears to depict the approved
budget
5 figures for media plan and what had been spent
at the
6 time of the preparation of this document and
what amount

7 of dollars had not yet been spent.
8 Q. Is this the type of summary that
Livingston
9 would submit to the California Department of

Health

10 Services either routinely or upon the
department's
11 request?
12 A. I don't recall this form.
13 Q. Is this the kind of information that
would be
14 submitted to the Department of Health Services
if you
15 were seeking approval for a recommended media
plan?
16 A. No.
17 Q. Do you have any explanation as to why
this
18 chart would appear in conjunction with the
initial page
19 2771 entitled "Recommended Media Plan Youth,"
slash,
20 "Prevention"?
21 MR. VANDERET: Objection. Calls for
22 speculation.
23 THE WITNESS: No, because I didn't
prepare it.
24 BY MR. L'ORANGE:
25 Q. Who prepared recommended media plans
at

294

1 Livingston & Company during the time you were
there?
2 A. David Acosta.
3 Q. Any idea where he is today?
4 A. No.
5 Q. Do you have any reason to disagree
with or
6 object to the figures set out on page 2772 of
7 Exhibit 105?
8 A. I have no ideas what the figures
reflect,
9 whether they are accurate or inaccurate,
whether they
10 are comprehensive or not.
11 Q. Does Asher have any documents at all
that
12 reflect what has been spent in the Prop 99
program from
13 1994 to the present?
14 A. I believe so, yes. And I believe you
received
15 that.
16 Q. Okay. Let me represent to you we're
going to
17 go through what we have for budgetary documents
and,
18 regrettably, they are all of the pedigree that
we're
19 examining on now.
20 Is there a spreadsheet, to your
knowledge, a
21 flowchart, some summary document within Asher
that
22 depicts the spending in the Prop 99 program
from 1994 to

23 the present?
24 I know we talked about estimates
yesterday.
25 But we're looking for a document that we could
use as
295
1 support for those estimates.
2 A. There's a summary document from the
start of
3 the program to date showing spending in the
Prop 99
4 program.
5 Q. Can you tell me what the title of that
document
6 is?
7 A. No.
8 Q. Do you know who has custody of that
document?
9 A. The State. And they gave us a copy.
10 Q. All right.
11 Can you tell me when that occurred?
12 A. Within the last two years. Well, if
it shows
13 now -- well, I guess within the last year.
14 Q. Do you recollect who gave you the
copy? Was it
15 Colleen Stevens?
16 A. The copy just appeared on my desk. I
don't
17 know how we received it.
18 Q. Do you know who the transmitting
person was?
19 A. No.
20 Q. Did it come from the Department of
Health
21 Services or the Tobacco Control Section?
22 A. The Tobacco Control Section.
23 Q. And you -- it's your recollection this
occurred
24 in about the last year? Would that be a fair
25 characterization?
296
1 A. Yes.
2 Q. Based on what you've seen with respect
to the
3 numbers depicted on page 2772, as you sit here
today, do
4 you have any reason to disagree with those
numbers?
5 MR. VANDERET: Objection to that
question.
6 Asked and answered.
7 THE WITNESS: I think I answered that.
8 BY MR. L'ORANGE:
9 Q. I'm sorry?
10 A. I answered that.
11 Q. Which was?
12 A. I said I don't know because I don't
know what
13 this chart is. I don't know what it reflects.
I don't

it's
I don't
marked
106

14 know if it's comprehensive. I don't know if
15 missing things. I don't know who prepared it.
16 know why it was prepared.
17 MR. L'ORANGE: Okay. Can I have
18 document beginning 0156.
19 Mark this next in order, please.
20 (The document referred to was
21 by the C.S.R. as Defendants' Exhibit
22 for identification and attached to and
23 made a part of this deposition.)
24 BY MR. L'ORANGE:
25 Q. Before you examine the document --

297

Prop 99
proposed
or ad
presents the
as vague
present
State.
it out
that occur
for us
don't
the phone.
but are you
information
to the

1 A. Oh, before. Okay.
2 Q. -- as the person who supervises the
3 account, are you involved in the creation of
4 budgets to submit to the State for various ads
5 campaigns under the program?
6 A. Yes.
7 Q. Are you the person who actually
8 budgetary information to the State?
9 MR. VANDERET: Object to the question
10 and ambiguous.
11 BY MR. L'ORANGE:
12 Q. In other words, you meet with them and
13 the proposal to them?
14 A. I recommend budget allocations to the
15 They provide me with a budget, and then I break
16 for them.
17 Q. Are these budget discussions items
18 in the 12 to 50 personal meetings you described
19 yesterday that you have with the State?
20 A. Many times they're over the phone. I
21 remember if they have been in person or over
22 Q. It's a colloquial characterization,
23 essentially the eye in the needle for budget
24 as it goes from Asher to the State with respect
25 Prop 99 program?

298

as vague

1 MR. VANDERET: Object to the question
2 and ambiguous and unintelligible.

3 THE WITNESS: I don't really know.
4 BY MR. L'ORANGE:
5 Q. Are you the single portal for that
information
6 to be communicated to the State, and the State
responds
7 to that information and transmits alternate
information
8 back?
9 A. Sometimes I do it with a team of
people there.
10 Sometimes I do it alone.
11 Q. But you're the person who ultimately
makes the
12 decisions on the budgets from Asher's
standpoint?
13 A. I have been up until the last couple
of years,
14 and in the last couple of years, Colleen
Stevens has
15 done the budget breakouts.
16 Q. Do you create a summary at the end of
your --
17 strike that.
18 The program operates on a fiscal year
19 commencing July 1 each year to June 30 the
following
20 year?
21 A. Generally, yes. Sometimes there's
extensions.
22 Q. And who prepares the summary of all
the
23 spending that is done during that fiscal year?
24 A. I've done it in the past. My account
25 supervisors have done it. My account
executives. My
299
1 assistant account executives. Member of the
2 asher&partners' account management team as well
as
3 members of the account management teams of the
ethnic
4 subcontractors.
5 Q. And to the extent that you don't
physically
6 prepare the summaries, are they submitted to
you for
7 review prior to their being forwarded to the
State?
8 A. Yes.
9 Q. All right. So essentially, you do see
all of
10 the budgetary information that covers a fiscal
year of
11 spending at some point?
12 A. I -- I should, yes.
13 Q. All right. Let me ask you, if you
would for a
14 moment, to take a look at what's been marked as
15 Defendants' 106.
16 Do you feel comfortable --
17 A. Okay.

18 Q. All right.
19 A. Yeah.
20 Q. If I could ask you to look at the
title page on
21 Bates 0156, you'll note that in the lower
right-hand
22 corner, it says, "Livingston and Keye, December
4,
23 1992."
24 Were you employed at the agency at
that time?
25 A. I don't remember any exact start date
at

300
1 Livingston and Keye, but I believe I was
employed there
2 at this time.
3 Q. All right. Were you working in any
way on the
4 Prop 99 program?
5 A. I don't recall the start date that I
started at
6 Livingston and Keye, which is when I started
working on
7 the Prop 99 program. So sometime in 1992, I
began
8 working at Livingston and Keye.
9 Q. All right. Would it be a fair
statement for me
10 to say that at least your recollection is you
were an
11 employee -- you think you were employed at
Livingston
12 and Keye prior to December 4 of 1992?
13 A. Yes.
14 Q. All right. Do you have a recollection
of
15 working on the creation of the document that's
depicted
16 at Bates 0156 following California Department
of Health
17 Services, January through June 1993 Media Plan
General
18 Market, paren, Incorporating Ethnic Scheduling,
close
19 paren?
20 A. No.
21 Q. Do you know who prepared the document?
22 A. No.
23 Q. Were you involved in any way in
reviewing the
24 document?
25 A. I don't know.

301
1 Q. Do you have any recollection of
reviewing and
2 modifying the document in any way?
3 A. No.
4 Q. All right. On Bates number 0157, if
you'll
5 look at the beginning of the last paragraph on

that

6 page, the sentence reads:

7 "The campaign resumed in the
8 fall of 1992 with the campaign

directed

9 at teens and adults aged 18 through

49."

10 Do you have any recollection of being

involved,

11 either from a supervisory or from a creative

standpoint,

12 in the fall of 1992 campaign?

13 A. I believe I was involved in that

campaign.

14 Q. Also, if I could draw your attention

to the

15 introduction paragraph, the last sentence makes

mention

16 of a goal of surpassing the 50 percent bonus

media

17 weight.

18 What's that refer to?

charged with

19 A. Every year for the State, we're

weight for

20 securing 50 percent additional free media

21 them.

22 Q. What's the term "media weight" mean?

budget

23 A. For example, if you had a \$10 million

million

24 for paid media, our goal would be to get \$5

25 worth of free media.

302

the

1 Q. So that, in other words, the total or

million as

2 cumulative amount of advertising could be 15

3 opposed to --

4 A. Would be worth 15 million.

5 Q. Okay. All right.

the

6 Drawing your attention to Bates 0158,

of '92

7 following page, there is reference to the fall

8 plan, and the indication is, quote:

is

9 "The overall goal of the plan

tobacco

10 to change the social norms about

quote.

11 among the general public," close

with that

12 Do you have any reason to disagree

13 goal?

14 A. I'm on the wrong --

15 Q. I'm sorry. 0158.

16 A. Okay.

17 Q. Top of the page.

18 A. Okay. Do I -- what is the question?

reason to

19 Q. The question is, do you have any

20 disagree with the overall objective statement?
21 A. No.
22 Q. Looking at the overall strategy, do
you have
23 any reason to disagree with what the overall
strategy
24 was as set forth in this document?
25 A. I think that strategy's really
convoluted and

303
1 difficult to understand. So I don't even know
what it's
2 trying to say.
3 Q. Would you agree with me that at least
the
4 campaign seems to suggest developing a greater
long-term
5 understanding of the dangers of tobacco rather
than
6 trying to effect short-term behavior changes?
7 MR. VANDERET: I don't understand what
you're
8 asking.
9 MR. L'ORANGE: Asking her if she
agrees with
10 the last part of the statement that at least
one of the
11 goals of the campaign was to effect a long-term
12 understanding of the dangers of tobacco rather
than
13 effect short-term changes of behavior.
14 THE WITNESS: I couldn't say that I
agree or
15 disagree with that. I think we've had both of
those as
16 goals.
17 BY MR. L'ORANGE:
18 Q. Throughout the campaign?
19 A. Every year we have different goals,
different
20 strategies. It's hard for me to get into the
mind of
21 this author and see what he was -- he or she
was trying
22 to communicate.
23 Q. What were the goals or objectives as
they were
24 explained to you for the fall 1992 campaign
that you
25 participated in?

304
1 A. To decrease the prevalence of smoking
in the
2 State of California.
3 Q. Do you have any recollection of any
discussion
4 about creating a greater long-term
understanding about
5 the effects of tobacco as opposed to trying to
create a
6 short-term behavioral change?

kinds of 7 A. I don't have a recollection of those
8 discussions.
0159. 9 Q. If I could ask you to look at page
10 You'll note that there are strategies that are
11 recommended on the page.
12 With respect to the statement, quote,
"Identify 13 key segments of the general public to target
the 14 campaign," close quote, is the purpose of this
strategy 15 to identify the target group that the
campaign's going 16 to be directed at?
17 MR. VANDERET: Objection. Calls for
18 speculation. Lack of foundation.
19 THE WITNESS: I didn't write this. I
don't 20 recall seeing it, so I don't know what this
page is 21 trying to show or communicate.
22 BY MR. L'ORANGE:
23 Q. But you were involved in the campaign,
were you 24 not?
25 A. Yes.

305
campaign 1 Q. And was part of the execution of the
2 to identify target groups?
3 A. Yes.
4 Q. All right.
5 And was one of the target groups of
this 6 particular campaign kids aged 10 to 14?
7 A. I recall a teen target group.
8 Q. Would that be the media target of
teens 12 9 through 17?
10 A. Yes.
11 Q. All right.
12 And media target -- a second target
group would 13 have been women aged 18 to 34?
14 A. I don't recall that we ever targeted
women 15 specifically.
16 Q. Was there an attempt to target opinion
leaders 17 based on a media target of adults 25 to 54 in
the 18 professional and managerial categories?
19 A. That's what this appears to suggest.
20 Q. Okay.
21 Do you have any recollection of that
being 22 discussed in the campaign as it was being
formulated in 23 the fall of 1992?
24 A. Yes.

that the
306
1 campaign was focused on?
2 A. I believe so, yes.
3 Q. All right.
4 Now, if I can -- would you look at
0162,
5 please. By way of explanation, there are five
columns
6 here, and the first one is entitled "ADI."
7 What does that stand for?
8 A. Area of dominant influence.
9 Q. And that means what?
10 A. It's the area where a television --
television
11 signals predominantly cover. So these counties
are
12 predominantly covered when you purchase
television for
13 Los Angeles. The signals reach that far.
14 Q. All right.
15 The next -- if you skip over "County,"
the next
16 column is "TV HH's."
17 What does that mean?
18 A. Television households.
19 Q. So the numbers in this column depict
the number
20 of households that the signal will reach?
21 A. I believe so, if these numbers are
accurate.
22 Q. All right.
23 We're not saying the number of people.
We're
24 saying the number of households. Correct?
25 A. Yes.
307
1 Q. All right.
2 Now, the next column has percentage of
-- is --
3 and I'm going to assume "CA" means California?
4 A. Yes.
5 Q. Do you have any understanding as to
how these
6 numbers are compiled or the source from which
they are
7 drawn?
8 A. I'm surprised there isn't a source
listed, so I
9 don't know the source.
10 Q. Based on your experience working for
Livingston
11 and Keye in the '92 to '94 time frame, if no
source were
12 listed, would that indicate to you that these
numbers
13 are compiled by Livingston or somebody in
Livingston?
14 A. No. I would think that they just
forgot to put

15 the source.
16 Q. The next column is entitled "Spill
In."
17 What does that mean?
18 A. "Spill in" means the amount of media
that you
19 buy in one area that spills over into another
area, but
20 I don't know what those numbers listed there
mean.
21 Q. Let me make sure I understand. For
instance,
22 if you look down at Ventura County, we're
reaching in
23 round numbers, about 223,000 households which
comprise
24 2.1 percent of the population of California,
and there
25 is a spill in of 5.

308
is of the
target
California" give
that in any
mean?
trying
advertise in
get the
you would
advertise
somebody in
And
Nevada;
309
Arizona.

1 A. I don't know whether the 2.1 percent
2 population of California or a percentage of the
3 audience that we were trying to reach.
4 Q. All right.
5 Does the title "Percentage of
6 you any assistance on that?
7 A. No. Could be either.
8 Q. All right.
9 Looking at the Ventura entry, does
10 way assist you in telling us what the 5 would
11 A. No.
12 Q. When you talk about -- and, again, I'm
13 to understand the concept of spill in.
14 A. Right.
15 Q. How exactly does that -- if I
16 Sonoma, somebody whose house is close enough to
17 signal in the adjoining county, is that what
18 call --
19 A. Right. They might see it. Or if you
20 on the border of California and Arizona,
21 Arizona might see your message.
22 Q. Okay.
23 If I can ask you to look at page 0164.
24 just as a point of clarification, we're doing a
25 California campaign, but we're listing Reno,

1 Medford, Oregon; and Phoenix. I presume that's

other
signal?
of the
in
--
premise
it, this
there
Oregon, and
of spill
messages
California
or
markets
don't know
wanted to
have to buy
are those

2 This is an example of spill in? In
3 words, these folks could receive a California
4 MR. VANDERET: Object to the premise
5 question. I don't understand what we're doing
6 California again.
7 MR. L'ORANGE: I'm sorry. You don't
8 MR. VANDERET: I don't understand the
9 of the question.
10 MR. L'ORANGE: Well, as I understood
11 is Prop 99 money being spent in California, but
12 are entries for Reno, Nevada, and Medford,
13 Phoenix.
14 Q. And my question is, are those examples
15 in in the sense that they would receive the
16 because they could receive signals from a
17 station?
18 A. I don't know whether it's showing that
19 whether it's showing that you have to buy those
20 in order to reach people in California. I
21 what those -- that listing is showing.
22 Q. Okay. So, in other words, if you
23 reach Alpine or El Dorado counties, you may
24 in Reno?
25 A. Well, I don't know if those are in --

310

the bottom
showing in
showing
percentage of
California.
this

1 in California?
2 Q. Alpine County is, yeah.
3 A. It is? Okay.
4 Q. So is El Dorado.
5 A. So --
6 Q. All right. I understand now.
7 Now, if I can draw your attention to
8 of the page, in terms of TV households, we're
9 round numbers about 10,800,000, and we're
10 100 percent in the next column, which is
11 either California or your target audience in
12 Are we saying, essentially, that if
13 campaign were to be aired in the manner that is

depicted

reaching 14 on Bates 162 through 164, you're essentially

California or 15 100 percent either of the population of

conclusion? 16 your targeted audience? Is that a fair

17 MR. VANDERET: Objection. Calls for
18 speculation. Lack of foundation.

19 THE WITNESS: No.

20 BY MR. L'ORANGE:

conclusion? 21 Q. What would be wrong with that

referring to. I 22 A. I don't know what this page is

people 23 don't know if it's referring to the number of

chart 24 reached by our campaign or if it is just a

counties or 25 indicating the percentage of people in the

311

I don't 1 if it's a chart all about who receives spill.

campaign at 2 know if this page has any relation to our

3 all.

4 Q. In other words --

what 5 A. This might just be a total of showing

6 percentage of population resides where.

whether it's 7 Q. In other words, you're not sure

8 connected to 0162 or not?

as vague 9 MR. VANDERET: Object to the question

10 and ambiguous.

0162. This 11 THE WITNESS: The same applies to

relation 12 chart doesn't necessarily have anything or any

since I 13 to do with the media campaign. Or it may. But

I don't 14 didn't prepare it and I don't recall seeing it,

15 really know what it's all about.

16 BY MR. L'ORANGE:

17 Q. All right.

beginning 18 Let me ask you to look at the charts

19 at 0166 and continuing through 0168.

creation 20 Were you involved in any way in the

21 of this chart?

22 A. No.

January through 23 Q. You'll note that it addresses a

24 June 1993 media plan.

that plan? 25 Were you involved in the creation of

312

1 A. No.
2 Q. Did you supervise that plan?
3 A. No.
4 Q. Were you employed by Livingston and
Keye at the
5 time?
6 A. Yes.
7 Q. Is there any reason why this plan
would have
8 been put together and submitted without your
knowledge?
9 A. I don't supervise the development of
media
10 plans.
11 Q. Were they provided to you for your
approval
12 prior to submission to the State while you were
at
13 Livingston and Keye?
14 A. No.
15 Q. Who would have -- in your best
judgment, who
16 would have prepared this document?
17 A. David Acosta.
18 Q. Would he have discussed his
preparation of this
19 document with you in any way?
20 A. He may have. He may not have.
21 Q. Is there any way we can tell whether
the media
22 depicted on Bates 0166 through 0168 aired?
23 A. No.
24 Q. Are there documents currently in the
possession
25 of Asher which would tell us whether this media
aired?

313

1 A. I don't believe so.
2 Q. Are there documents, to your
knowledge, in the
3 possession of the Tobacco Control Section which
would
4 tell us when this media aired?
5 A. I don't know.
6 Q. All right.
7 Now, let me ask you, if you would, to
look at
8 Bates beginning 0169 through 0171.
9 Is there any way whether -- you can
tell me
10 whether the media depicted in those inclusive
Bates
11 numbers aired?
12 A. No.
13 Q. If you would, please, turn to 0172,
please.
14 In the course of supervising the Prop
99
15 campaign of Livingston and Keye, did you ever
see the
16 budget summary from January through June 1993
media?

17 A. I don't recall.
18 Q. All right.
19 Let me ask you to examine the document
for a
20 minute.
21 To your knowledge, who would have
prepared this
22 budget summary?
23 A. I don't recall.
24 Q. Do you have a recollection of seeing
it at any
25 time?

314

1 A. No.
2 Q. Looking at the totals depicted on the
document,
3 do you have any reason to agree with -- to
disagree with
4 them?
5 A. I've never seen this. I don't know
what it
6 refers to. I don't know if it's accurate or
inaccurate.
7 Q. Does Asher maintain a budget file in
its
8 documents that deal with the budgets for media
campaigns
9 or ad campaigns for each of the years that it's
had the
10 account?
11 A. No.
12 Q. How do you keep track of what is spent
for each
13 year?
14 A. We do budgetary summaries like we were
talking
15 about before.
16 Q. All right.
17 Let me interrupt you. We went through
all your
18 docs last night. We don't have any budgetary
summaries.
19 We're working with, frankly, documents that
this is as
20 good as it gets --
21 A. Hm-hm.
22 Q. -- to be honest with you.
23 Is there a specific title of the
budgetary
24 summaries?
25 A. It is just -- it usually says the time
frame

315

1 represented, and then it's entitled "Budget
Summary,"
2 and then it breaks out the spending.
3 Q. All right. Now, recognizing you
didn't publish
4 or prepare this --
5 A. Hm-hm.
6 Q. -- and you don't have a recollection

of
7 reviewing it --
8 A. Hm-hm.
9 Q. -- is there any other reason why you
would
10 either disagree or not accept figures that are
set out
11 in this budget summary for January through June
1993?
12 A. Yes.
13 Q. And can you tell me what those are?
14 A. I remember not having a lot of
confidence in
15 the media director at Livingston and that his
documents
16 that he prepared frequently were inaccurate.
17 Q. Is the total cost number that he has
set out in
18 his budget summary -- is it your sense it's too
high or
19 too low or can you tell?
20 A. I can't tell.
21 MR. L'ORANGE: Okay. Why don't we go
off the
22 record for a minute.
23 (Discussion held off the record.)
24 (Recess taken.)
25 MR. L'ORANGE: Mark this, please.

316
marked
107
1 (The document referred to was
2 by the C.S.R. as Defendants' Exhibit
3 for identification and attached to and
4 made a part of this deposition.)
5 BY MR. L'ORANGE:
6 Q. Miss Steele, if I could ask you to
take a look
7 at what has been marked Defendants' 107.
8 A. Okay.
9 Q. Have you seen this document before?
10 A. I don't recall.
11 Q. Do you have any recollection of being
involved
12 in the preparation of the document in any way?
13 A. No.
14 Q. You will note that it covers a time
period
15 July '94 through June '95.
16 Were you supervising the Prop 99
account at
17 Asher/Gould during that period of time?
18 A. Yes, I was.
19 Q. You will note on Bates 2745 that, in
the middle
20 of the document, you are reporting a bonus
delivery of
21 57 percent, reflecting roughly 4,240,000 and
some
22 change.
23 Is this the bonus system you described
for us

that was 24 earlier that you secured additional advertising
25 free in the amount of roughly \$4,240,000?

317

Yes. 1 A. We secure additional media weight.

2 Q. So my statement --

3 A. That wasn't very clear.

4 Q. I'm sorry. My statement was correct?

5 A. Could we do it again.

6 Q. My -- my question was, in reviewing

Bates 2745, 7 is, in essence, what we are reporting that, in
addition

also able 8 to the paid media that you purchased, you are

roughly 9 to get additional media which had a value of

10 \$4,240,000?

indicate. 11 A. That's what this page appears to

12 Q. All right.

13 Now, if I could ask you to turn to

Bates 2749 14 so we can generally understand what's going on
here. If

15 you would look at the chart for a moment.

16 Can you tell me what this chart

depicts?

17 A. It appears to depict the medium that

we

18 advertised in, the time frame, the amount of

media

19 dollars that may have been expended during that

time,

20 the amount of value media that was received,

and then a

21 calculation is done that shows what percent

bonus we

22 achieved for a total bonus dollar value

indicated in the

23 final column on the right.

who 24 Q. Do you have any understanding as to

25 prepared this document?

318

1 A. No.

someone 2 Q. Would it be your opinion that it was
3 employed by Asher/Gould?

4 A. Not necessarily.

if not by 5 Q. Who would have prepared this document
6 Asher/Gould?

at 7 A. Western International Media or someone

8 Asher/Gould would have prepared this.

9 Q. Okay.

the 10 Now, you'll note on the first page at

11 bottom, it says, "prepared by Asher/Gould

Advertising"?

12 A. Yes.

13 Q. Do you have any reason to disagree
with that at
14 all?

15 MR. VANDERET: That's what it says or
that --

16 MR. L'ORANGE: Well, that it was
prepared by

17 somebody at Asher/Gould.

18 THE WITNESS: Parts of it may have --
they may

19 have assembled things prepared by other people.

They
20 may have prepared it. I don't know who did
this chart.

21 BY MR. L'ORANGE:

22 Q. Was there somebody in your
organization that

23 was tasked with preparing budget summaries
during the

24 time you ran the Prop 99 program?

25 A. Preparing budget summaries?

319

1 Q. Hm-hm.

2 A. Yes.

3 Q. Was there someone charged with
preparing bonus

4 delivery analyses?

5 A. It would either be someone at
asher&partners

6 media department or someone at Western
International

7 Media.

8 Q. If it were Asher/Gould at the time --

9 A. Hm-hm.

10 Q. -- April 18th, 1995, who, in your
opinion,

11 would it have been?

12 A. I don't know.

13 Q. Were there people who were customarily
assigned

14 roles preparing either bonus delivery analyses
or budget

15 summaries within your team?

16 A. The bonus analyses -- I think I just
said that

17 it's either someone at asher&partners' media

18 department -- I don't know who -- or someone in
Western

19 International's company. I don't know who.

20 The budget summaries we discussed
earlier,

21 myself and my account management team.

22 Q. If I could ask you to turn to 2749,
please.

23 A. Hm-hm.

24 Q. Looking at the figures depicted on the
chart,

25 do you have any reason to disagree with them?

320

1 A. I don't know what they reference. I
don't have
2 anything to relate them to.
3 Q. I understand that.
4 What I'm asking you is, do you have
any reason
5 to disagree with the figures?
6 MR. VANDERET: Objection. Lack of
foundation.
7 THE WITNESS: I don't have any reason
to agree
8 or disagree.
9 BY MR. L'ORANGE:
10 Q. Do you have any documents that are
present in
11 the production from Asher which would verify
that the
12 actual expenditure for general public
television in the
13 time period September 26th, '94, through May
21st, '95,
14 was, in fact, \$3,668,100?
15 A. I don't know.
16 Q. Is this a document, so far as you
understand,
17 that is to be directed to the California
Department of
18 Health Services?
19 A. It appears that way. That's who it's
-- the
20 title is for.
21 Q. All right. It would not be Asher's
policy,
22 would it, to submit numbers that were
inaccurate or
23 incorrect?
24 A. Our policy is to submit accurate
numbers.
25 MR. L'ORANGE: All right. If I may,
could I
321
1 have 5361, please.
2 If you would, please.
3 (The document referred to was
marked
4 by the C.S.R. as Defendants' Exhibit
108
5 for identification and attached to and
6 made a part of this deposition.)
7 BY MR. L'ORANGE:
8 Q. All right.
9 Can I ask you to take a moment and
just examine
10 the document.
11 A. Okay.
12 Q. Okay.
13 Have you seen this document before?
14 A. I don't recall.
15 Q. Would you agree with me that it is a
proposed
16 fiscal 1995-1996 meeting plan?
17 A. It appears to be that.

18 Q. And in the course of your job as the
supervisor
19 of the Proposition 99 account, did you present
proposed
20 fiscal media plans to the State?
21 A. Did I? No.
22 Q. Who presented the proposed fiscal
media plans?
23 A. People from our media department.
24 Q. Would that be Leah Mitchell?
25 A. I don't know which member of the media

322
1 department presented it. Or if this was
presented.
2 It says "proposed," so it could never
have been
3 presented. It may not even be what we ended up
doing.
4 Q. Were you involved in any way in the
preparation
5 of the document?
6 A. No.
7 Q. Did you talk to Leah Mitchell at all
in
8 preparation for this deposition about whether
she
9 presented proposed fiscal media plan to the
State
10 representatives?
11 A. Whether she presented this proposed
media plan?
12 Q. Any proposed.
13 A. No, I didn't -- we didn't have a
discussion
14 about that.
15 Q. If you would, please, tell me how
fiscal media
16 plans were prepared and presented to the State.
17 A. It varies from year to year.
Generally, I give
18 the media department a media budget. We
discuss the
19 overall objectives for the campaign. They
develop a
20 media plan. They show it to me. I make
changes,
21 sometimes minor, sometimes major.
22 And then someone from the account
management
23 team, usually myself, and someone from the
media
24 department -- and that varies who that would
have
25 been -- presents the plans to TCS, either in
person or

323
1 over the phone. Generally in person.
2 Q. I'm sorry. Over the phone generally
or --
3 A. But -- generally in person. But
because this

4 says "proposed," I don't know if this was a
draft that
5 was presented or never presented. I don't know
if this
6 is what ran or what didn't run.
7 Q. How many drafts would you have,
typically, in
8 the course of preparing the media plan?
9 A. It varies year to year.
10 Q. How many drafts do you recollect with
respect
11 to the media plan in 1995-1996?
12 A. I don't recall -- recollect how many
drafts
13 were prepared.
14 Q. Are you aware of any instance during
the time
15 you've been with Asher/Gould or asher&partners
where a
16 draft media plan was essentially rejected and
an
17 entirely new and completely different draft
media plan
18 was created covering the entire year?
19 A. No.
20 Q. Can you tell me how media objectives
are --
21 strike that.
22 Did you participate in the
determination of the
23 media objectives?
24 A. No. I participate in the development
of the
25 marketing objectives.

324

1 Q. Who would be the participants in the
'95-'96
2 time frame in determining media objectives?
3 A. Members of our media department.
4 Q. And who would that be in the '95-'96
time
5 frame?
6 A. I'm not sure who was working on the
account at
7 that time. We had a variety of people working
on the
8 account.
9 Q. Leah Mitchell was working on it. We
know that;
10 correct?
11 A. Yes.
12 Q. Who else besides Leah Mitchell?
13 A. I don't know.
14 Q. Who comprised your media department in
the
15 1995-1996 time frame?
16 A. I don't know.
17 Q. What is your understanding of how
members of
18 the media department determine what the media
objectives
19 are going to be?

objectives
with our
up with
your
time frame?

20 A. I believe they marry the marketing
21 that I provide them with or that we discuss
22 budgets and our target audiences, and they came
23 what the objectives for the media plan are.
24 Q. Do you have a recollection of what
25 marketing objectives were for the 1995-1996

325
to
the state
primary
year
you'll note
bullet point
budget
too
that.
decreases
not?

1 A. Generally, as I stated yesterday, it's
2 decrease the prevalence of smoking throughout
3 of California and to focus on those four
4 strategic areas, although it appears that this
5 teens were also a target.
6 Q. Asking you to turn to page 5366,
7 under the geography discussion, the second
8 states, quote:
9 "However," comma, "as the
10 decreases with the success of the
11 campaign," comma, "the danger is to
12 attempt to spread the media dollars
13 thin," period, close quote.
14 Were there discussions in -- strike
15 In the '95-'96 time frame, there were
16 in the State's funding of Prop 99, were there

there have
years those
State
funding
the
on

17 A. As I stated yesterday, I know that
18 been ups and downs with the budget. Which
19 ups and downs occurred, I don't know.
20 Q. Do you recollect any discussion with
21 representatives that portions of the Prop 99
22 were being directed into the general fund by
23 Governor's office as opposed to being expended
24 Prop 99?
25 A. Yes.

326
discussions may
period?

1 Q. Do you recollect that these
2 have taken place in roughly the 1995-1996 time
3 A. I don't recollect the time frame.
4 Q. All right.

5 Was the period of decreased funding of
the
6 program roughly from about 1994 to 1996?
7 A. I think I answered that, my
recollection of
8 when the budget decreased and didn't decrease,
but I
9 don't know exactly which years it decreased and
which
10 years it didn't, and this isn't referring to
that.
11 Q. Can you tell me what this is referring
to?
12 A. This is basically referring to as --
since the
13 Prop 99 campaign is funded by a tax on
cigarettes, as
14 fewer and fewer people smoke, the budget goes
down. We
15 put ourselves essentially out of business, the
better
16 job we did.
17 Q. Lawyers do that, too.
18 So, in essence, what you're indicating
is -- is
19 that the more successful Prop 99, the less the
budget
20 will be because you have achieved what you're
seeking,
21 which is a decrease in the prevalence of
smoking?
22 A. Yes. Unless the remaining smokers
decide to
23 start smoking more packs.
24 Q. More. Okay.
25 The paragraph then goes on to make
mention

327

1 about concentrating media dollars in the major
2 population centers of the state?
3 A. Yes.
4 Q. Do you have a recollection that,
because of the
5 budget decreases through Prop 99, that there
was a major
6 change in media objectives for this period of
time,
7 that, i.e., you would target major population
centers in
8 the state?
9 A. We always target major population
centers of
10 the state.
11 Q. Is the tier 1, tier 2 analysis that is
set
12 forth on 5366 the manner in which you do that
targeting?
13 A. Yes.
14 Q. All right.
15 Now, let me represent to you this was
the first
16 document that I saw referenced to tier 1, tier

2. I did

17 not see it in previous media plans.

that you

18 Was there a change in the program such

'95 time

19 began using the tier 1, tier 2 analysis in the

20 frame?

agencies from

21 A. There's a change in advertising

used

22 Livingston to asher&partners, so they may have

you just

23 different language. But I recall seeing things

24 showed me similar.

while the

25 Q. But it was your understanding that

328

at

1 syntax or the verbiage may have been different

major

2 Livingston, that agency was also targeting

3 population centers?

4 A. I believe so, yes.

5 Q. All right.

that the

6 And then would it be a fair statement

been

7 proposed three-tier market selection may have

differently by

8 executing the same strategy but described

of what's

9 Asher? Would that be a fair characterization

10 going on here?

agencies

11 A. I believe that both advertising

recall

12 focused on major population centers. I don't

this

13 whether both agencies broke out the markets in

14 manner.

you'll

15 Q. Drawing your attention to page 5367,

the

16 note under "rationale" -- based on your role as

have any

17 supervisor of the program for Asher, do you

analysis

18 reason to disagree with the tier 1, tier 2

in

19 concerning the percentages of the total adults

forth on

20 California or the teen population as is set

21 this document?

numbers

22 A. I can't say for sure that those

time. I

23 represent the population of the state at that

24 don't have those figures memorized.

25 Q. All right.

329

1 Setting that aside, do you have any

reason to

that are

2 disagree with the percentage characterizations
3 set forth in the document?

4 A. No.

5 Q. If you would, please, turn to page
5380.

6 The last paragraph essentially
contains three

7 bullet points. If you could take a moment and
8 paragraph.

9 A. Okay.

10 Q. Okay. Now, I recognize that these
bullet

11 points are articulated in this media strategy
as set

12 forth on 5380, but would it be true that one of
the

13 general goals of the Prop 99 program, at least
as

14 administered by asher&partners or Asher and
Gould, was

15 to reach the general public effectively with
spots

16 connected with programs that had the highest
audience

17 delivery, the rating point analysis that you
gave us

18 yesterday?

19 A. What I feel comfortable saying is what
I said
20 yesterday, that the goal was to reach people

most cost
21 effectively and in programs that -- with high
reach.

22 Q. Okay.

23 Because you want the highest audience
delivery

24 because you want your message to get out to the
greatest

25 number of people; true?

330

as we
1 A. We always want to reach as many people
2 can within our budget parameters.

3 Q. Okay.

4 Now, that would be also true for
bullet point

5 number 2, would it not, that you'd want to
identify

6 those programs that have the greatest crossover
7 communication effect that are watched heavily

by adults,
8 teens, and English-speaking ethnicities?

9 A. That's true for certain areas and not
for

10 others. It depends on our strategy.

11 Q. Okay. Can you give me a general idea
of the

12 years where it would be true, given the
strategy you had

13 adopted.
14 A. No.
15 Q. Now, with respect to those years that
you are
16 developing media strategies around youth
access, you
17 would want to place spots with programs that
would reach
18 the highest number of concerned parents such
that they
19 would influence their children.
20 That would be a fair statement, would
it not?
21 A. Sometimes we used television to
deliver our
22 youth access messages, and some years we did
not.
23 Q. In the years that you used television
access to
24 deliver your messages, would the bullet point
labeled
25 number 3 on document 5380 be true?

331

1 A. No.
2 Q. And why wouldn't it be true?
3 A. Sometimes, some years, we wanted to
concentrate
4 on concerned parents, and other years, we
wanted to get
5 our message about youth access out to adults
18-plus.
6 Q. Would bullet point number 3 be true in
those
7 years where you wanted to concentrate on
concerned
8 parents?
9 A. It appears to be, yes. True. Yes.
10 Q. In your position as the program
supervisor from
11 1992 forward, do you believe that the
strategies that
12 were adopted either by Livingston or by Asher
13 accomplished their goals?
14 A. I would hope that they did. However,
since I
15 indicated yesterday that the State didn't
measure the
16 effectiveness of their program, I guess we'll
never
17 know.
18 Q. Do you have any efficacy data which
indicates
19 that the prevalence of smoking has declined in
20 California?
21 A. Some years, the prevalence has gone
down. Some
22 years, it stayed flat. Some years, it's gone
up. It
23 depends on the target audience.
24 Q. Who provides you with the efficacy
data on
25 that?

332

the
give us --
the
group

1 A. There's some study conducted called
2 behavior something something study that they
3 that the TCS gives us every year that indicates
4 prevalence of smoking. I -- I forget the exact
5 that provides it.

you

6 Q. All right. Let me ask you to look, if
7 would, at 5400.

take it you
of this

8 A. Okay.
9 Q. Based on your earlier testimony, I
10 would not have been involved in the preparation
11 document?

seeing it?

12 A. Right.
13 Q. Do you have any recollection of ever

have no
mediums

14 A. No.
15 Q. And would your testimony be that you
16 idea as to whether any of these advertising

would be able
implemented?

17 either were posted or aired?
18 A. That would be my testimony.
19 Q. All right. Who at asher&partners
20 to tell us whether this program was ever

chart
since this
believe

21 MR. VANDERET: Objection. Calls for
22 speculation.
23 THE WITNESS: You can't tell from this
24 whether or not things aired, and especially
25 was a proposed media plan, you can't -- I don't

333

please.
marked
109

1 anyone would be able to tell you that.
2 MR. L'ORANGE: If I could have 3699,
3 (The document referred to was
4 by the C.S.R. as Defendants' Exhibit
5 for identification and attached to and
6 made a part of this deposition.)

take a

7 BY MR. L'ORANGE:
8 Q. Miss Steele, if I could ask you to
9 moment and look at what's been marked as
10 Defendants' 109, please.

entitled

11 A. Okay.
12 Q. Now, at the top of the document it's
13 "Conference Report."
14 Do you see that?

15 A. Yes.
16 Q. And it says under "present," if you
read across
17 for agency, there's a "C. Steele."
18 That would be you; right?
19 A. Yes.
20 Q. All right.
21 Do you have a recollection of this
particular
22 conference?
23 A. No.
24 Q. Do you have any reason to doubt you
were not
25 there?

334
1 A. No.
2 Q. Looking down about almost to the
bottom of the
3 page. It's the third footnote up or the third
bullet
4 point. There's an indication, a media budget
of 12
5 million 894 -- I'm sorry -- \$12,894.30 was
agreed to.
6 Do you have any recollection of that?
7 A. Of what?
8 Q. That media budget being agreed to?
9 A. No.
10 Q. Now, let me ask you, if you would, to
take a
11 look at page 3713. I'm trying to figure out
what's
12 going on here.
13 MR. VANDERET: 3713?
14 MR. L'ORANGE: Please.
15 MR. VANDERET: Oh, I guess my copy --
oh. Copy
16 was misassembled.
17 MR. TERRY: Here.
18 BY MR. L'ORANGE:
19 Q. It's entitled "Budget." Beneath that,
it says
20 "Supplement Budget."
21 A. Yes.
22 MR. VANDERET: Then it goes to 36.
23 BY MR. L'ORANGE:
24 Q. Do you have any recollection of a
supplementary
25 budget in the sum of \$1,279,000 and some change
being

335
1 discussed at this conference with respect to
the
2 broadcasting of commercials addressing
smoke-free bars?
3 A. A vague recollection. Because I
barely
4 recall -- well, I don't recall the meeting. I
have a
5 vague recollection that that may have been
discussed.

the figure 6 Q. You have no reason to disagree with
7 as set out in 109?
8 MR. VANDERET: There's a lot of
figures on --
9 MR. L'ORANGE: The one we're talking
about is
10 on 3717.
11 MR. VANDERET: Okay.
12 THE WITNESS: Disagree about what?
13 BY MR. L'ORANGE:
14 Q. That that was the figure that was
proposed for
15 spending with respect to smoke-free bars?
16 A. It looks like that was a proposed
figure.
17 Q. Do you have any recollection as to
what the
18 figure actually turned out to be?
19 A. No.
20 Q. Now, let me ask you to look at 3703.
It's a
21 chart. Now, the reason I ask you about the
bullet point
22 for \$12,000 is it struck me as being a little
low. I
23 looked at the grand total set out on 3703. The
number
24 appears to be \$12,894,300.
25 Would that sound like a more accurate
media
336
1 budget as opposed to the \$12,894.30?
2 A. Yes.
3 Q. Okay.
4 I'm trying to get an understanding of
the
5 process here.
6 Are there conferences conducted at
some point
7 during your fiscal year when total media
budgets are
8 approved?
9 A. Could you ask it a different way.
10 Q. Sure.
11 Are there conferences conducted at
some point
12 during the fiscal year when the State advises
you as to
13 what your budget will be for the coming fiscal
year?
14 A. Every year the State gives us our
budget.
15 Q. I understand that.
16 But do they do it at a conference of
the type
17 that appears to be depicted in this memo dated
18 February 13th, 1997?
19 A. No.
20 Q. How -- how is the budget customarily
given to
21 you?

22 A. Generally, Colleen calls me on the
phone and
23 says, "Here's your budget."
24 Q. So for fiscal 2000, you have a budget
25 hypothetically of \$20 million.

337

1 MR. VANDERET: I don't understand the
question.
2 BY MR. L'ORANGE:
3 Q. Would that be how it would be
delivered to you?
4 A. Colleen would call and say, "Here's
your budget
5 for the fiscal year."
6 Q. Now, as I understand it, you then
segment out
7 some portion of that for your subcontractors;
correct?
8 A. In the past I have done it. And, as I
said
9 earlier --
10 Q. I'm sorry. She's doing it now.
11 A. -- for the past two years, she's done
it.
12 Q. All right. So the budget that you get
is for
13 Asher; correct?
14 A. She says, "Here's Asher's budget, and
here's
15 the subs' budget."
16 Q. All right. And then you, from that,
make your
17 allocations among the various media components
for Asher
18 then to implement?
19 A. Yes.
20 Q. All right.
21 A. I don't personally, but Asher does.
22 MR. L'ORANGE: Let's take about five
minutes.
23 MR. VANDERET: Okay.
24 (Recess taken.)
25 BY MR. L'ORANGE:

338

1 Q. As I was indicating off the record,
I'm having
2 some difficulty understanding the process with
respect
3 to these proposed media plans.
4 Explain to me, if you would, what is
the
5 administrative process, I guess I'd call it,
that occurs
6 from the time you get the phone call from
7 Colleen Stevens advising you as to what Asher's
budget
8 is to the point where you are creating
recommended media
9 plans. What's the process that you go through?
10 A. Colleen calls and says, "Here's your
budget for

we need
ethnic
things I
up with a
have to
media."
in hand,
draft of
minor.
we feel

11 the year." Then I consider all the things that
12 to achieve for the year.
13 Strategically, in regards to our
14 subcontractors productionwise, a variety of
15 look at and I break out the budget, and I come
16 number for paid media.
17 And I meet with members of our media
18 department, and I say, "Here are our strategic
19 objectives for the year. Here's the budget you
20 achieve those -- to address those objectives in
21 And they take that and the objectives
22 and they go off and they develop a media plan.
23 Several weeks later, they show me a
24 the media plan, and I make changes, major or
25 And then we get it to the point where

339
either
go over

1 comfortable presenting it to the client, and we
2 have a meeting or we -- a phone call where we
3 the proposed media plan with the client.

take

4 Q. All right.
5 So with respect -- and let's -- let's
6 hypothetically --
7 Let me mark next in order.

marked
110

8 (The document referred to was
9 by the C.S.R. as Defendants' Exhibit
10 for identification and attached to and
11 made a part of this deposition.)

look for a

12 BY MR. L'ORANGE:
13 Q. All right. Now, let me ask you to
14 moment at Exhibit 110.

time in the

15 Have you seen this document at any
16 past?

it?

17 A. This document, no.
18 Q. Do you recognize the handwriting on

right-hand

19 A. No.
20 Q. All right. At the bottom of the
21 corner, there appears to be the name "Leah"?

within

22 A. Yes.
23 Q. Would that be Leah Mitchell?
24 A. Could be.
25 Q. Are there other Leahs that it could be

1 the Asher organization?
2 A. No.
3 Q. Now, I flowcharted out what you told
me in your
4 conversation.
5 You are given a total budget for Asher
by
6 Miss Stevens in her call; correct?
7 A. Yes.
8 Q. All right. Now, when you began to
analyze the
9 strategic objectives, these are strategic
objectives
10 that have essentially been arrived at through
your
11 conversations with the State in terms of what
the State
12 wants to achieve for that year?
13 A. Yes.
14 Q. And presumably -- correct me if I'm
wrong --
15 you have discussions with the ethnic
subcontractors in
16 terms of what they should be planning to
achieve?
17 A. Yes.
18 Q. Now, once these objectives are decided
upon,
19 you then do a budget breakout wherein you
assign certain
20 amounts for paid media?
21 A. Yes.
22 Q. Paid media would be radio, print,
television.
23 A. Those are some kinds of paid media,
yes.
24 Q. Other forms of paid media would be
what?
25 A. Outdoor.

1 Q. Okay. Billboards.
2 A. Billboards.
3 Q. Okay. You then go to your media
department and
4 advise them of what the strategic objectives
are that
5 you and the State have agreed upon.
6 A. Yes.
7 Q. You then ask them to create a media
plan
8 consistent with achieving those strategic
objectives?
9 A. Yes.
10 Q. All right. Now, is that where the
media
11 department creates a recommended flowchart or a
12 recommended media plan similar to what has been
marked
13 as Exhibit 110?
14 A. Yes.
15 Q. Now, this then -- this document or a

document

resubmitted

to

recommended

State

the

342

that you

best

constraints

time --

December 1996

recommended

then -- and

that you

media plans

more

review

their

covering a

of times

16 similar to this, similar to 110, is then

17 back to you for review?

18 A. Yes.

19 Q. All right.

20 The purpose of that review is for you

21 determine whether the media plan that's been

22 meets the strategic objectives that you and the

23 have agreed upon?

24 A. It's for me to have an overall look at

25 media plan.

1 Q. Okay. Would one of the objectives

2 want to achieve is that you're delivering the

3 possible message consistent with the budget

4 that you have to deal with?

5 A. Yes.

6 Q. All right. How many media -- how many
7 recommended media plans for a defined period of

8 for instance, in the case of July through

9 as depicted in Defendants' 110 -- how many

10 media plans would you review? Just one and

11 then tweak it so that it meets the objectives

12 want to achieve, or would you have multiple

13 that you would review?

14 It's a bad way of asking do you review

15 than one for a defined period of time?

16 A. Sometimes, yes.

17 Q. And sometimes no?

18 A. Hm-hm. Sometimes I review -- I always

19 two. Two would be the minimum I would review,

20 initial draft and then another draft.

21 Q. The media plan, is it customarily

22 period of six months?

23 A. No.

24 Q. What is the maximum and minimum period

25 the media plans cover?

343

1 A. The maximum is generally a year.

2 Q. And the minimum could be?

3 A. Three to six months.

4 MR. L'ORANGE: Tim, can I have zero --

bottom of 5 Q. If I could ask you to look at the
the note 6 Exhibit 110.
6/12/96? 7 Do you recognize the handwriting where
8 appears, "okayed by Colleen"? Appears to be
9 A. No, I do not.
10 Q. Would Colleen be Colleen Stevens?
11 MR. VANDERET: Objection. Calls for
12 speculation.
13 THE WITNESS: I don't know.
14 BY MR. L'ORANGE:
15 Q. Do you know who Colleen is?
16 A. Do I know who Colleen is on this page?
17 Q. Yes.
18 A. No.
19 Q. Is there a Colleen employed by
Asher/Gould 20 roughly in 1996 that you're aware of?
21 A. No.
22 Q. Do you have any reason to believe that
the 23 Colleen set forth at the bottom of the page is
anyone 24 other than Colleen Stevens?
25 A. No.

344
is there 1 Q. When the State approves a media plan,
that they 2 a formal letter that is sent to you indicating
3 will approve it, or is it done by telephone?
4 A. No. There's not a formal letter.
It's not 5 done by telephone.
6 Q. How is the approval obtained?
7 A. We send a media estimate, and the
client signs 8 it, approving some or all of the plan.
9 Q. And the media estimate is usually sent
in the 10 form of a letter calling for the State's
signature at 11 the bottom?
12 A. Sometimes just an estimate is faxed.
13 Sometimes -- it -- generally, it's just faxed.
14 MR. L'ORANGE: Okay. Tim, could I
have 0042, 15 please.
16 Q. Before we get into this, would you
want -- I 17 think --
18 A. Oh, okay.
19 Q. I think it's there.
20 MR. VANDERET: Off the record for a
second. 21 MR. L'ORANGE: Yeah.
22 (Discussion held off the record.)
23 (Recess taken.)
24 BY MR. L'ORANGE:
25 Q. We touched on this yesterday very,

very

345

that.

the

through the

"interact"?

your

either

funded?

the list,

--

companies

recollection of

were

concerning

about

by

1 briefly, but do you interact at all -- strike

2 Does Asher interact at all with any of

3 advertising agencies that are being funded

4 MSA moneys?

5 A. No. You mean -- what do you mean,

6 Q. Have they made any requests for any of

7 video, audio, or print materials utilized in

8 Prop 99 or Prop 10?

9 A. Who are the lists of the MSA agencies

10 Q. I beg your pardon?

11 A. I can't answer that without knowing

12 the names of all the agencies that are funded.

13 Q. I'm not talking about agencies. I am

14 A. Oh.

15 Q. -- I'm talking about the -- the ad

16 that have been retained.

17 MR. VANDERET: That's what she's --

18 BY MR. L'ORANGE:

19 Q. Do you have -- do you have any

20 being contacted by anybody indicating that they

21 involved in the MSA plan, seeking information

22 what's been produced in Prop 99?

23 A. I don't. I don't have any information

24 that.

25 Q. The ads that are produced and funded

346

market

1 Prop 99, are they played to any form of a test

2 prior to being released generally?

3 A. No.

4 Q. Is that because of budgetary

constraints?

5 A. I don't know what it's due to. It's

nothing

6 the client has ever wanted to do recently.

7 Q. What about earlier?

8 A. They may have done it earlier.

Actually, I

9 don't believe they have ever done it.

10 Q. Are any --

11 A. With a few exceptions.

12 Q. Are any of the ads, prior to being

placed in

13 the general media, premiered, if you will, in

front of

14 focus groups for feedback?

15 A. Sometimes.

that

17 occurs on a regular basis? Is it sporadic?

18 A. Sporadic.

determine whether

19 Q. And what are the factors that

focus group?

20 you're going to have an ad placed before a

have it

21 A. Whether or not the client wants to

and before

22 tested before it airs -- after it's completed

23 it airs.

specific ad

24 Q. Do you have a recollection of any

group

25 or campaign that has been placed before a focus

347

1 prior to it being aired?

2 A. Yes.

3 Q. And which ad or campaign?

that's

4 A. I recall recently an ad called "Slave"

aired but

5 been tested in focus groups and has not yet

6 has been completed.

7 Q. Is it an ETS ad?

8 A. No.

medium,

9 Q. Have any of the ETS ads, in whatever

aired?

10 been placed before a focus group prior to being

11 A. I don't recall.

you've

12 Q. The ads that are on the videotape that

were those

13 reviewed and authenticated for us yesterday,

the

14 ads all aired at some time during the course of

15 Prop 99 program?

16 A. I don't know.

were not

17 Q. Are there any of the ads listed that

18 aired?

19 A. I don't know.

out, how

20 Q. If we wanted to find that information

21 would we make that determination?

instructions

22 A. You would go to that pile of

and you'd

23 yesterday, the traffic rotation instructions,

24 see if any of the titles on here were missing.

tell us

25 Q. And if they were missing, that would

348

1 that they were not aired?

2 A. No, because that pile of documents

actually

3 might not be complete from the beginning of the
4 campaign.

least

5 Q. Who within Asher would know whether at

6 the spots produced by Asher were aired?

7 A. I would.

8 Q. All right.

produced

9 Now, limiting my question to the spots

were

10 by Asher that are set forth on Defendants' 98,

11 those spots all aired?

12 A. Yes.

you mark

13 MR. L'ORANGE: Madam Reporter, would

14 that for me, please.

marked

15 (The document referred to was

111

16 by the C.S.R. as Defendants' Exhibit

17 for identification and attached to and

18 made a part of this deposition.)

19 (Discussion held off the record.)

20 BY MR. L'ORANGE:

21 Q. Have you had an opportunity to examine

22 Exhibit 111?

23 A. Yes.

24 Q. Do you recognize this as a portion of

25 asher&partners' web site?

349

1 A. Yes.

creation of

2 Q. Were you involved in any way in the

3 the web site?

4 A. No.

an

5 Q. This may sound silly, but did Asher as

did it go

6 advertising agency create its own web site, or

site?

7 to another advertising agency to create its web

agency to

8 A. They didn't go to another advertising

site

9 create a web site. They may have used a web

site.

10 development company, or they may have done it

11 themselves. I don't know who created the web

any of

12 Q. Okay.

13 Were you asked at any time to approve

14 the statements contained on the web site?

That's all.

15 A. I believe that I reviewed my bio.

would, to

16 Q. All right. Can I ask you, if you

17 turn to the mission statement.

18 A. Hm-hm.

the mission

19 Q. Now, at the top left-hand corner of

20 statement, it indicates what "we stand for,"

and then

the page.

the mission

21 the mission statement is set out at the top of

22 A. Yes.

23 Q. Do you disagree with any portion of

24 statement as it's set out in the web site?

25 A. No.

350

the

have

program

Proposition 99

1 Q. Now, as the person who supervised the
2 Proposition 99 program at Asher from 1994 to

3 present, do you believe that you and your team

4 developed a memorable marketing communications

5 in response to the State's requests for

6 ads?

7 A. Yes.

and your

8 Q. Same question, do you believe that you

9 team have developed an effective marketing

10 communications program in response to the

State's

11 requests for ads for Proposition 99?

it

12 A. I would hope so, although the State --

effort, and

13 doesn't measure the effectiveness of our

the climb

14 there are a lot of things that contribute to

objective,

15 in the prevalence of smoking. And that's our

16 and the ad campaign is only one thing.

developed

17 Q. Do you believe that you and your team

marketing

18 effective marketing commun- -- an effective

19 communications program?

answered.

20 MR. VANDERET: Objection. Asked and

21 THE WITNESS: Just answered that.

22 BY MR. L'ORANGE:

measure

23 Q. You've told me that the State doesn't

believe that

24 effectiveness. I'm asking you whether you

regardless of

25 the program you developed was effective

351

not.

1 whether the State measures effectiveness or

it.

2 A. I said that I would hope so. And it's
3 unfortunate that I have no concrete evidence of

team

4 Q. Is it your belief that you and your

5 implemented a memorable and effective marketing

6 communications program?

7 A. I thought I just answered that.

development. 8 Q. No. We spoke -- we spoke about
9 We didn't talk about implementing.
10 A. Oh, okay. Do I believe we implemented
--
11 Q. Yes, ma'am.
12 A. -- a memorable -- I believe we
implemented a
13 memorable marketing plan. I hope that we
implemented an
14 effective marketing plan. What role our plan
has played
15 in the decline of the prevalence of smoking, I
can't
16 say.
17 Q. Now, the bottom portion of your
mission
18 statement indicates that the "team of
passionate and
19 innovative professionals are committed to
exceeding the
20 business goals of our client partners."
21 Is it your belief that the marketing
and
22 communications plan developed by Asher since
1994 under
23 Proposition 99 exceeded the goals of the
California
24 Department of Health Services?
25 A. No.

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California
1 Q. Did you meet the goals of the
2 Department of Health Services?
3 A. I think we've all been frustrated that
the
4 prevalence of smoking was flat for some time
when we'd
5 hoped for a decline.
6 Q. Is it your belief that your marketing
and
7 communications program did not meet the goals
of the
8 State?
9 A. No.
10 Q. All right. What is lacking in not
meeting the
11 goals of the State? Simply that the prevalence
of
12 smoking has remained flat in the State?
13 A. What's the question?
14 Q. What goals have you not met from the
California
15 Department of Health Services?
16 A. We had an overall goal of decreasing
the
17 prevalence of smoking by 75 percent by the year
2000,
18 and I believe that we did not meet that goal.
I think
19 we missed it by 7 percent.
20 Q. I'm sorry. By 7?

21 A. 7.
22 Q. All right. So the prevalence
decreased --
23 instead of 75 percent, it decreased by 68
percent?
24 A. I haven't done the math, but I could.
25 Q. And I don't mean to be flip with you
--

353
1 A. Right.
2 Q. -- but a 7 percent difference would
suggest to
3 me it's 68 percent, not 75 percent.
4 Would -- would that be a fair
characterization?
5 A. No. I'm saying that right now, I
think the
6 prevalence of smoking is around 18 percent, and
I
7 believe a 75 percent reduction since the
inception of
8 the campaign would have led to the total
prevalence
9 being around 9 percent. So the difference
between
10 9 percent and 18 percent -- actually, it's
around
11 9 percent. So I think we've missed the goal by
around 7
12 to 9 percent.
13 Q. Okay. Is that the only goal that you
feel the
14 program has not met or exceeded?
15 A. I don't know. I probably list out
hundreds of
16 goals for the campaign, and I'd have to think
about
17 whether each of them had been met or not met or
18 exceeded.
19 Q. With respect to the awareness of the
residents
20 of the State of California as to the health
risks
21 associated with environmental tobacco smoke, do
you
22 believe that your marketing and communications
program
23 has met or exceeded the State goals in making
the
24 residents of California aware of either the
general or
25 specific health effects associated with ETS?

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1 A. I believe that our campaign has met
those goals
2 over time. However, when there's a lapse in
the media
3 plan, within three weeks, people's recall of
the
4 messages begin to drop off and decline.
5 So frequently throughout our campaign

-- and
to a
experience,
as soon
currently
couldn't
of
trying to
to sound
with
out on
within
Am I
needs to be
to keep
curve of
people
355
of being
you've
factors
message
tobacco
in the
"forgetness" for
too.
lot
three

6 unfortunately, media has been put on hold due
7 variety of circumstances where, based on our
8 people's recall of our messages would drop off
9 as three weeks after.
10 For example, we've been off the air
11 for five months -- four to five months. So I
12 state people's current awareness of the dangers
13 secondhand smoke currently because of that.
14 Q. I'm not in your industry, so I'm
15 understand this, and, again, I don't mean this
16 flip in any way.
17 Is it the position of -- let's start
18 Asher -- that once a warning about ETS is sent
19 the media, that a person who hears that warning
20 three weeks is no longer aware of the dangers?
21 characterizing that fairly?
22 A. It's a belief by Asher that there
23 continuous exposure to the message for people
24 the learning top of mind. There's called a
25 forgetting, and I don't know the percentage of
1 that forget a message. But after three weeks
2 off the air, a certain percentage of the people
3 initially reached forget what you've told them
4 altogether.
5 Additionally, there are a variety of
6 that affect whether a person will believe your
7 or not, including public relations from the
8 industry and the prominence of those headlines
9 newspapers, et cetera.
10 Q. I can speak to the curve of
11 16-year-old females.
12 MR. VANDERET: Yeah, I'll second that,
13 MR. L'ORANGE: I can tell you it's a
14 shorter than three weeks. Sometimes it's about

15 hours.
16 MR. VANDERET: And 7-year-old males as
well.
17 I'll --
18 MR. L'ORANGE: That's about three
minutes.
19 BY MR. L'ORANGE:
20 Q. Are you distinguishing between
awareness and
21 belief, and, if so, how are you doing that?
How are you
22 distinguishing in that?
23 A. Actually, I was talking about both
things.
24 Awareness can drop off and belief can be
questioned, or
25 belief can be nonexistent based on other pieces
of
356
1 information a target audience receives.
2 Q. Let me go at it this way.
3 Can I be aware of a hazard but choose
not to
4 believe it?
5 A. I don't know what you can be aware of.
I
6 don't -- I don't know.
7 Q. Is there a difference in you or your
agency's
8 approach in making someone aware of a hazard as
9 opposing -- as opposed to making them believe
that the
10 hazard exists?
11 A. I think that media campaigns are
generally
12 designed to make people aware. What we achieve
in terms
13 of whether people actually believe our message,
only
14 that person -- individual would know.
15 Q. In designing your campaigns, do you
distinguish
16 between those persons whom you will reach with
a message
17 who choose not to believe that message but,
18 nevertheless, are aware of its content versus
those
19 persons who are aware of the message and choose
to
20 believe the content?
21 A. No. We don't break it out that way.
22 Q. Is there a difference, at least in
your mind,
23 between a person who is at least aware as
opposed to a
24 person who is aware and believes?
25 A. Is there a difference between those
two people?

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1 Yes.
2 Q. All right. In terms of the

effectiveness of
that
chooses
who is made
as vague
or say it
the -- you
campaigns are
because
message of
hand on a
some
there's a
stove,
burn their
effectiveness,
it

3 the campaign, is a campaign any less effective
4 imparts awareness to a subject but that subject
5 not to believe as opposed to another subject
6 aware and chooses to believe?
7 MR. VANDERET: Object to the question
8 and ambiguous and unintelligible.
9 THE WITNESS: Would you break it out
10 a different way or say it again.
11 BY MR. L'ORANGE:
12 Q. What I'm asking you is, in terms of
13 indicated to me in earlier testimony that
14 designed to make people aware.
15 Now, my question to you, and, again,
16 I'm not in the advertising business, is there a
17 difference in terms of reaching people with a
18 awareness? They are aware not to put their
19 hot stove because they may be burned. However,
20 segment of that population, while being aware
21 warning about putting their hand on the hot
22 choose not to believe that. They're going to
23 hand.
24 I mean, haven't you, in terms of
25 warned that population. It's just a segment of

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distinguishing --
here.
my money
indicated to me
have
the State
you

1 chooses not to believe. That's the
2 that's the -- what I'm trying to distinguish
3 A. But what is the question part of it?
4 Q. The question --
5 A. Sorry.
6 Q. Miss Steele, you're making me work for
7 here.
8 What I'm asking you is, you've
9 in some respects you think the program may not
10 achieved effectiveness with respect to some of
11 goals.
12 Now, we've spoken a little bit in your
13 testimony about awareness versus belief.
14 I'm asking you if you have a campaign,

15 direct it towards a particular population, and
in the 16 course of that campaign, the population becomes
aware 17 but a segment chooses not to believe the
totality of the 18 message that you're delivering, is your
campaign 19 essentially ineffective? I mean, you have made
that 20 population aware. You have a segment that
chooses not 21 to believe.
we've 22 A. So I guess we would assess it and say
23 accomplished some things and not others.
24 Q. All right. If we take that for a
moment, is it 25 your belief that you have increased the
awareness of the

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1 residents in the state of California about the
dangers 2 associated with environmental tobacco smoke?
3 A. During those times when paid media was
running, 4 yes.
5 Q. All right.
6 A. I don't know what the dropoff has been
since we 7 haven't been on the air.
8 Q. All right. Now, that's the other part
of this 9 I'd like to talk to you about. And, again, I'm
not in 10 the advertising business.
11 Is it your testimony that while
somebody can be 12 made aware, they lose that awareness over time?
Is that 13 what we're saying?
14 A. Yes. Some people do.
15 Q. Now, let me take it the next step.
16 If that's true and you ran a campaign
of 17 advertising where every resident in the state
of 18 California on January 1st, 2001, received a
sheet of 19 paper, 8-and-a-half by 11, that said ETS is
dangerous, 20 do not inhale, every resident in the state of
of the 21 California -- you did nothing else for the rest
22 year.
23 Now, am I correct in concluding that,
based on 24 your testimony, that after three weeks, we
essentially 25 have no awareness among some segment of the
population

1 because there's been a dropoff?
 2 MR. VANDERET: Object to the question
 on the
 3 grounds it misstates the witness's prior
 testimony.
 4 THE WITNESS: Yeah, I don't know what
 a --
 5 about a sheet of paper and the impact of sheets
 of paper
 6 on people. But generally, in paid media, when
 you're
 7 not running media, people begin to forget your
 message.
 8 BY MR. L'ORANGE:
 9 Q. And, again, going back to this -- this
 point
 10 again, so that if you run a television ad
 indicating
 11 that ETS is dangerous and you run it to the
 city of
 12 San Francisco, it's your position that, within
 three
 13 weeks, some portion of that population forget
 their
 14 awareness to the dangers of ETS?
 15 A. Yes.
 16 Q. Are there any endogenous factors that
 17 re-instill that awareness? Or is that
 awareness only
 18 reinstalled by another advertising campaign?
 19 A. It could be instilled through other
 things.
 20 Q. Child coming home from school and
 telling the
 21 parent, "We learned today in school that ETS is
 22 dangerous"?
 23 A. That would be a way.
 24 Q. Could be a variety of other
 stimulants, could
 25 there not --

1 A. Yes.
 2 Q. -- over that three-week period time
 3 re-instilling the knowledge?
 4 A. There could be.
 5 Q. Under that scenario, is belief that
 important a
 6 component so long as there are stimuli out
 there
 7 reinforcing the awareness?
 8 MR. VANDERET: Object to the question
 as vague
 9 and ambiguous.
 10 THE WITNESS: Could you ask it a
 different way.
 11 BY MR. L'ORANGE:
 12 Q. Does it make any difference whether
 they
 13 believe so long as there are stimuli out there
 14 reinforcing the awareness?
 15 MR. VANDERET: Does it make any

difference in

16 what respect?

17 MR. L'ORANGE: Any respect at all.

18 THE WITNESS: Certainly, if someone

believes

19 something, they are more likely to take action

than if

20 they are just aware of it, don't believe.

21 BY MR. L'ORANGE:

22 Q. Is there a greater difference in the

falloff in

23 populations who are made aware but choose not

to believe

24 versus those populations who are made aware and

choose

25 to believe?

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1 A. I don't know.

air for

2 Q. In terms of your having been off the

3 five months in Prop 99 -- true?

4 A. Four months, yes.

5 Q. Okay.

are funded

6 Are there currently ads running that

7 by Prop 10? That we --

now.

8 A. I don't know if they are running right

testimony,

9 Q. We identified nine yesterday in your

10 five of which, I believe, were TV spots?

now.

11 A. I didn't say that were running right

12 Q. What is running right now?

schedule

13 A. I don't know what the media flighting

fact, I

14 is, so we could be off the air this week. In

15 think that we are.

16 Q. Under Prop 10?

17 A. Yes.

Prop 10

18 Q. So while Prop 99 has not been running,

19 has been?

And --

20 A. No. Prop 99 has not been running.

21 Q. For four --

22 A. -- for four months.

23 Q. Okay.

off, and it

24 A. And Prop 10 has been running on and

flowchart.

25 may be off right now. I don't have the media

363

period Prop 99

1 Q. But it's been running during the

2 has been off; true?

has been

3 A. For parts of the period that Prop 99

4 off, it has been running. Not all of the time.

There

5 were sometimes when nothing was running.
6 Q. Now, do the MSA groups have media
spots running
7 today?
8 A. I don't know their media flighting
schedules.
9 Q. Now, if I could ask you, please, to
look at
10 portion of your web site that's entitled "Ads
That
11 Work."
12 A. Okay.
13 Q. Now, the first statement in the
right-hand
14 corner indicates, quote:
15 "Every campaign that goes out
16 our front door is targeted to just one
17 person, the consumer," close quote.
18 If we were to apply that statement in
your
19 case, is the campaign targeted to the consumer
20 essentially who you defined yesterday, smokers
and
21 nonsmokers?
22 A. Yes.
23 Q. Okay.
24 The next sentence says, quote:
25 "After all, if our work
doesn't

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1 move someone to act, to think, to
2 decide, or yes, to buy, then we've
3 failed," period, close quote.
4 Applying that statement to the Prop 99
5 campaign, do you believe that you have moved
someone,
6 presumably the consumers, to act or to think
about the
7 dangers posed by environmental tobacco smoke?
8 A. Yes.
9 Q. Would it be your testimony that
applying that
10 second sentence to the Prop 99 campaign, Asher
hasn't
11 failed in what it set out to do?
12 A. I think I gave testimony earlier about
my
13 beliefs on whether our campaign has been
effective in
14 every regard or not. So failed -- in some
areas, we
15 failed. In some areas, we've succeeded.
16 Q. At least one of the failed areas that
you
17 indicated to me was that there could be between
a 7 and
18 9 percent difference in the prevalence of
smoking in the
19 state; true?
20 A. Yes. Part --
21 Q. Between a target of 75 percent which
you

22 believe it to be?
23 A. Right. Yes.
24 Q. Okay. Can you give me any other
example that's
25 as specific as the prevalence rate of smoking
where you
365
1 think the campaign may have failed?
2 A. I believe that because of the
Governor's
3 intervention in the past and the current
Governor's lack
4 of decisions in the present, that media has not
been out
5 to consumers as frequently or as often as we
would like.
6 And although we don't take responsibility for
that, it
7 has impacted the campaign. Had a negative
impact on the
8 potential effectiveness of the campaign.
9 Q. Okay.
10 Now, let's look down to the second
paragraph.
11 The second sentence reads, quote:
12 "Our antismoking campaign for
13 California has been hailed as a model
of
14 ground-breaking creativity that gets
15 results," close quote.
16 Do you believe that is true as set
forth in the
17 web site?
18 A. Yes.
19 Q. One of the results you got was a
fairly
20 substantial decrease in the prevalence of
smoking in the
21 state of California; true?
22 A. I don't think that you can attribute
the
23 decline in prevalence of smoking or the
increase in
24 prevalence of smoking solely to the media
campaign. So
25 I can't take credit or blame for the direction
it's
366
1 gone.
2 MR. L'ORANGE: Madam Reporter, would
you mark
3 that, please.
4 (The document referred to was
marked
5 by the C.S.R. as Defendants' Exhibit
112
6 for identification and attached to and
7 made a part of this deposition.)
8 BY MR. L'ORANGE:
9 Q. All right. Miss Steele, if I could
ask you to

10 look at what's been marked as Exhibit 112.
11 Do you recognize this letter?
12 A. Yes.
13 Q. This was a letter drafted by Mr.
Schoenfeld and
14 directed to Mr. Chuck Wolfe, who was the deputy
director
15 of the MSA National Foundation?
16 A. Yes.
17 Q. Did you participate in any way in the
drafting
18 of this letter?
19 A. No.
20 Q. Did you discuss the context of this
letter with
21 Mr. Schoenfeld prior to him sending it to Mr.
Wolfe?
22 A. Yes.
23 Q. Did he give you a copy of this letter
to review
24 prior to his sending it to Mr. Wolfe?
25 A. I don't recall.

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any
1 Q. Do you have a recollection of making
2 changes in the letter at all?
3 A. I don't recall.
4 Q. Now, midway through the letter, you'll
see
5 circled a statement that says, quote:
6 "Our work has helped lower
7 California's prevalence almost
8 40 percent," dash, "the single largest
9 decline anywhere in the U.S.," period,
10 close quote.
11 Now, do you have an understanding what
he means
12 when he says "our work"?
13 A. Yes.
14 Q. That would be the advertising
campaign, would
15 it not?
16 A. Yes.
17 Q. All right. And do you agree with the
statement
18 that California's prevalence -- and is he
referencing
19 California's prevalence of smoking?
20 A. Yes, he is.
21 Q. All right. Would you agree with the
statement
22 that the work has helped lower California's
prevalence
23 almost 40 percent?
24 A. Yes.
25 Q. And is it true that that's the single
largest

368
1 decline anywhere in the United States?
2 A. At the time of this letter, it was. I
believe.

3 Q. It's May 1999?
4 A. I believe so.
5 Q. Roughly about nine months ago, give or
take?
6 A. Yes.
7 Q. All right. The next sentence in your
web site
8 indicates that your antismoking campaign --
reference to
9 the antismoking campaign reads, quote:
10 "It's been the toast of
everyone
11 from the 'New York Times' to the 'Los
12 Angeles Times' and many award shows in
13 between including the 1997 London
14 International Advertising Awards,"
15 period, close quote.
16 We talked about the London awards
yesterday.
17 Did you receive some recognition from
the
18 "New York Times"?
19 A. This says that we did.
20 Q. Do you have any understanding as to
what that
21 was?
22 A. No.
23 Q. Did you receive recognition from the
"Los
24 Angeles Times"?
25 A. We receive a variety of -- we receive
369
1 recognition from a variety of places, and I
don't know
2 the names of all the places we've received that
3 recognition from for sure.
4 Q. I appreciate that, but my question
goes
5 specifically to any recognition that you may be
aware of
6 that your program has received from the "Los
Angeles
7 Times."
8 A. I can't recall the specific articles,
where
9 they're from.
10 Q. I'd like to ask you, if you would, to
look at
11 your copy of the web site.
12 You'll note that the -- there are a
series of
13 advertisements that follow.
14 Is it your understanding that the
15 advertisements that are contained in the web
site that
16 address antismoking messages have either been
posted --
17 would that be the correct term?
18 A. Yes.
19 Q. All right. Have they been posted?
20 A. Yes.
21 Q. All right. Do you know over what

period of

22 time?

23 A. No.

24 Q. Now, let me -- if you would, look at

25 Exhibit 112 again, please, the letter.

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fact 1 Did you and Mr. Schoenfeld discuss the

2 that he was going to send the letter to Mr.

Wolfe at the 3 MSA National Foundation?

4 A. Yes.

least to 5 Q. And was the purpose of the letter at

interested 6 alert Mr. Wolfe that asher&partners might be

7 in participating in the advertising campaign

that was 8 going to be organized by -- through the MSA?

9 A. I have to read the letter.

moment and do 10 Q. All right. Why don't you take a

11 that.

12 A. Okay.

13 (Recess taken.)

14 BY MR. L'ORANGE:

direct your 15 Q. Ma'am, if I can ask you again to

16 attention to Exhibit 112.

17 Had you met Mr. Wolfe in the past?

18 A. Yes.

the media 19 Q. Actually, Mr. Wolfe was involved in

regard to 20 campaigns directed against or directed with

21 antismoking efforts in Florida, was he not?

22 A. Yes.

him? 23 Q. Who else was with you when you met

Silverman. 24 A. Bruce Dundore. Lynn Dahl. Bruce

25 That's kind of the group I remember.

371

1 Q. Okay.

October of 2 That meeting took place on or about

3 1998, did it not?

4 A. I don't remember.

Schoenfeld 5 Q. Now, in the first paragraph, Mr.

done over 6 makes reference to advertising that Asher has

Health 7 the past years for the California Department of

8 Services.

9 That would be the Prop 99 program?

10 A. Yes.

May 18th, 11 Q. Would it, as of this point in time,

program? 12 1999, include any of the efforts in the Prop 10

13 A. No.
14 Q. He then makes reference to advertising
for the
15 Oregon Health Division.
described
16 That would be the campaign which you
17 for us yesterday afternoon in your testimony?
18 A. Yes.
19 Q. He then also references the Los
Angeles County
20 Tobacco Prevention and Education media
campaign.
21 Is that the same campaign that you
described
22 for me with respect to the L.A. County
Department of
23 Health Services yesterday afternoon --
24 A. Yes.
25 Q. -- in your testimony? All right.

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1 Now, seeing this sentence in the
letter, does
2 that refresh your recollection that advertising
was, in
3 fact, done for the L.A. County Department of
Health
4 Services because, in your testimony yesterday,
you
5 weren't sure whether any efforts had been
exerted in
6 that area?
7 MR. VANDERET: I don't think that was
the
8 testimony.
9 BY MR. L'ORANGE:
10 Q. And if I'm misremembering, I
apologize, but
11 that was my recollection, that you just weren't
sure
12 whether anything had been done.
13 A. What I said was I wasn't sure that
anything had
14 run in paid media.
recollection
15 Q. Does this letter refresh your
16 that, in fact, paid media may have been run --
17 A. No.
18 Q. -- for the L.A. County Department of
Health
19 Services?
20 A. No.
21 Q. All right. Now, he then goes on to
say that
22 the attorney general -- and is this the
attorney general
23 for Oregon? Or the attorney general for
California?
24 A. Neither.
25 Q. What attorney general? For Florida?

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1 A. No. Christine Gregoire. I think

she's the

2 attorney general for Washington.

Novelli?

3 Q. Okay. And at the suggestion of Bill

4 A. Yes.

5 Q. Who is Mr. Novelli?

heads up

6 A. He is the chairman or president or he

7 the tobacco free kids campaign.

say, he

8 Q. Okay. Mr. Schoenfeld then goes on to

latest

9 is enclosing some additional samples of the

10 California work done by Asher.

TV spot

11 Now, one of the items he includes is a

12 entitled "Gala Event."

13 Was "Gala Event" aired in California?

14 A. Yes.

15 Q. Was it an ETS spot?

16 A. No.

17 Q. Could you tell me just briefly what it
18 depicted?

impotence.

19 A. It's a spot regarding smoking and

goes limp?

20 Q. Is this the one where the cigarette

21 A. Yes.

22 MR. L'ORANGE: Off the record.

23 (Discussion held off the record.)

record.

24 MR. L'ORANGE: All right. Back on the

featured on

25 Q. He indicates that "Gala Event" was

374

1 "60 Minutes."

May 18th

2 Had that been recently in light of the

3 letter?

recently, so I

4 A. His letter says it was featured

remember the

5 guess it was featured recently. I don't

6 date of the "60 Minutes" show.

also on

7 Q. Okay. And you were aware that it was

8 the "Today" show and the MSNBC cable TV?

9 A. No.

10 Q. All right.

to

11 Now, do you have any understanding as

featured on

12 whether or not when he says "Gala Event" was

commercial

13 "60 Minutes," was it part of an antismoking

points,

14 attached to "60 Minutes" because of the rating

15 or was it actually discussed on "60 Minutes"?

16 A. It was discussed.

with that?

17 Q. Were you interviewed in conjunction

18 A. No.

19 Q. Was anyone from Asher interviewed?
20 A. I don't believe so.
21 Q. Okay. Would your testimony be the
same for the
22 "Today" show and MSNBC cable, that the spot was
actually
23 discussed as opposed to being, if you will,
attached to
24 a show?
25 A. Well, I don't know if it was on those
shows. I

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1 think I just said that, so I don't know if it
was
2 discussed or if it aired.
3 Q. At least --
4 A. But I could guess, but I shouldn't
guess so --
5 Q. Well, I'll take your best estimate.
6 A. My guess is that it was discussed on
the shows.
7 Q. Okay. Mr. Schoenfeld then goes on to
say that
8 there's another spot on this reel of
commercials
9 entitled "Voice Box."
10 Is this the elderly woman who --
11 A. Yes.
12 Q. -- smokes the cigarette through her
throat?
13 All right. Were you involved in any
way in the
14 selection of the media spots which were placed
on this
15 reel that was transmitted to Mr. Wolfe?
16 A. I may have been. I don't recall.
17 Q. Were there any discussions that you
recall that
18 asher&partners wanted to put some of its most
effective
19 advertising in front of Mr. Wolfe?
20 A. I don't recall.
21 Q. If you didn't participate in
discussions
22 regarding the selection of the spots placed in
front of
23 Mr. Wolfe, do you have any understanding as to
who would
24 have?
25 A. No.

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1 Q. Would Mr. -- is it your understanding
2 Mr. Schoenfeld may have selected these entirely
by
3 himself, or do you know?
4 A. I don't know.
5 Q. Okay. Mr. Schoenfeld in the last
sentence of
6 that first paragraph indicates, quote,
"According to
7 early research indicators and reports from the

field,"

8 comma, "one of the most effective youth
prevention spots
9 ever produced," close quote, in reference to
"Voice

10 Box."
11 Had you seen any of that research at
all?

12 A. Yes.
13 Q. All right. What research is he
referencing?

14 What research and reports from the field?
15 A. There was a study done in Canada of a
lot of
16 antismoking commercials, and "Voice Box" scored
the
17 highest in terms of its effect on teenagers in
Ontario,
18 I believe. In focus groups, the "Voice Box"
spot
19 receives a very high recall. It's mentioned
kind of

20 unprompted frequently in focus groups.
21 Q. Were there any focus groups or
research
22 analysis conducted with respect to "Gala
Event"?

23 A. Yes.
24 Q. Do you recollect what the results
were?

25 A. I believe that many of the males we
researched

377

1 the spot with said that that would make them
think twice
2 about smoking.

3 Q. Okay. Let me draw your attention to
the second
4 full paragraph.

5 MR. VANDERET: The death wouldn't do
it but --

6 BY MR. L'ORANGE:
7 Q. In the second full paragraph Mr.

Schoenfeld
8 makes the following statement:
9 "In fact, we've become one of
10 the very few advertising agencies in

the
11 United States," paren, "along with
12 Crispin, Porter & Arnold," close

paren,
13 "that truly understands how social
14 marketing differs from private sector
15 marketing and, in particular, how to
16 construct social marketing media
17 campaigns for teens, young adults, and
18 adults," period, close quote.

19 Who is the Crispin, Porter agency?
20 A. They are an agency that handles the
media --

21 paid media campaign for the State of Florida as
well as

-- and I 22 the agency that handles -- one of the agencies
the 23 don't know all of the agencies -- that handles
efforts. 24 American Legacy Foundation's new advertising
25 Q. Okay.

378

1 And Arnold is also an advertising
agency?

2 A. Yes.

MSA 3 Q. All right. And are they involved in
4 production as well?

5 A. Yes.

6 Q. Were they involved in Florida at all?

7 A. No.

8 Q. All right.

business. They 9 A. Well, I mean, they pitched the
10 didn't win.

as to 11 Q. Okay. Do you have any understanding
sector 12 what social marketing is as opposed to private
13 marketing?

14 A. Yes.

15 Q. Could you tell me what that is?

change in 16 A. Social marketing aims to achieve a
private 17 social norms for a variety of subjects. And
goods for 18 sector marketing aims to sell products and
19 private sector companies.

in the 20 Q. Do you believe there is a difference
performing social 21 approach that an agency undertakes in
marketing? 22 marketing as opposed to private sector

some things 23 A. I think some things are similar and
24 are different.

correct that 25 Q. In your opinion, is Mr. Schoenfeld

379

agencies 1 asher&partners is one of the few advertising
the two 2 that really understands the difference between
3 modes of marketing?

understanding of 4 A. I can't attest to the level of

what they 5 all the advertising agencies in the U.S. and
6 understand about social marketing.

with the 7 Q. Do you have any reason to disagree

8 statement he set out in the letter?

9 MR. VANDERET: Objection. Asked and

answered.

10 THE WITNESS: I just -- I just
answered that.

11 I don't know what other advertising agencies
understand.

12 BY MR. L'ORANGE:

13 Q. I understand that.

14 My question was, do you have any
reason to

15 disagree with the statement that he's made in
this

16 letter as phrased?

17 A. It's hard to agree with it totally
because I

18 don't know what other advertising agencies
understand or

19 don't understand.

20 Q. Do you agree with the statement that

21 asher&partners is one of the very few

22 advertising agencies in the United States that truly
understands how

23 social marketing differs from private sector
marketing,

24 irrespective of what anybody else knows?

25 A. I --

380

1 MR. VANDERET: Object to the question
as

2 unintelligible, given that "irrespective"
clause.

3 THE WITNESS: Okay.

4 BY MR. L'ORANGE:

5 Q. Same question. We'll drop the
"irrespective"

6 clause.

7 A. I agree that asher&partners
understands social

8 advertising. I did not know what other
advertising

9 agencies' understanding of social marketing is.

10 Q. Do you agree that asher&partners in
particular,

11 as emphasized in this letter, knows how to
construct

12 social marketing media campaigns for teens,
young

13 adults, and adults?

14 A. Yes.

15 Q. Is it your understanding, based on
your review

16 of this letter, that the social marketing media
campaign

17 that Mr. Schoenfeld is referencing in this
letter

18 dealing with teens, young adults, and adults is
the

19 Prop 99 antismoking campaign?

20 A. No.

21 Q. What is he referencing?

22 A. Probably a variety of social marketing
23 campaigns that we've worked on.

has
there in
381
campaign;
the
you
Tobacco
Division Tobacco
campaign.
A
paragraph of
tobacco
enumerated
24 Q. How many social marketing campaigns
25 asher&partners worked on since you've been
1 1994?
2 You've been involved in the HIV
3 correct?
4 A. Six that I -- seven that I know of.
5 Q. All right.
6 Can you tell me either the names or
7 organization, whatever identifying moniker that
8 need, to identify each of the campaigns?
9 A. The Prop 99 campaign. The L.A. County
10 Prevention campaign. The Oregon Health
11 Control campaign. The HIV/AIDS Prevention
12 The Partner for a Drug-free America campaign.
13 campaign for the Children's Bureau of Southern
14 California.
15 Q. If I could interrupt for a minute.
16 That dealt with child abuse and --
17 A. Yes.
18 Q. -- positive parenting?
19 A. No. Well, yes.
20 And the Prop 10 campaign.
21 Q. Now, excuse me, if you will.
22 The remaining sentence in this
23 Mr. Schoenfeld's letter actually addresses
24 prevention and some of the campaigns you just
25 for us; true?

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paragraph of
some of the
true?
third
quote,
understand
change
"and
1 A. Could you ask that again. I was --
2 Q. The last sentence of the second
3 Mr. Schoenfeld's letter actually references
4 campaigns that you've just enumerated for us;
5 A. Yes.
6 Q. All right. Now, looking at the -- the
7 sentence, Mr. Schoenfeld says, quote, "We've,"
8 "dug deep," close quote, "over the year to
9 exactly what motivates the general public to
10 health attitudes and behaviors," dot, dot, dot,
11 why," period, close quote.
12 Do you agree with that statement?

13 A. Yes.
14 Q. And is part of the experience that has
enabled
the
15 Asher to dig deep to achieve this understanding
16 Prop 99 program?
17 A. Yes.
18 Q. All right. In addition to the other
social
for us?
19 marketing programs that you've just described
20 A. Yes.
21 Q. All right. In the context of the Prop
99
assessment
health
respect to
22 program, can you briefly describe for me your
23 of what motivates the general public to change
24 attitudes and behaviors particularly with
25 ETS?

383
1 A. I believe that smokers are willing to
reduce or
2 eliminate their smoking when they learn the
dangers of
3 secondhand smoke on innocent people, such as
children.
4 Q. In other words, when smokers are aware
of the
5 danger of ETS with respect to children, they
are more
6 likely to change their behavior?
7 Am I -- would that be a fair
characterization?
8 A. Yes.
9 Q. All right. Now, Mr. Schoenfeld goes
on to say,
10 quote:
11 "And just as importantly we
also
12 understand what doesn't work," close
13 quote.
14 Would you agree with that?
15 A. Yes.
16 Q. His last sentence indicates, quote:
17 "We've designed and conducted
18 hundreds of focus groups and analyzed
19 dozens of quantitative studies to
20 develop the unique strategies,
creative
21 concepts, and media tactics needed to
22 reach and motivate a wide range of
23 audiences most efficiently and
24 effectively," period, close quote.
25 Do you agree with that statement?

384
1 A. I don't know the exact number of focus
groups.
2 Yesterday I said a thousand. This says
hundreds. I

agree with 3 guess I'd have to count them up to totally
4 this statement.
5 Dozens of quantitative studies. I
don't know 6 how many have been done in total.
7 I agree that these things have been
used to 8 help us develop unique strategies and creative
concepts. 9 I disagree that they have been used to help
develop 10 media tactics. And I guess that's about it.
11 Q. All right. Now, have -- is it your
belief that 12 in the Prop 99 program you have developed
unique 13 strategies and creative concepts during the
time that 14 you've run the program?
15 A. Yes.
16 Q. And do you agree that these creative
concepts 17 and unique strategies have reached and
motivated a wide 18 range of audiences in California most
efficiently and 19 effectively?
20 A. I don't agree with that sentence
exactly. 21 Q. Why do you disagree with it?
22 A. It says that the strategies in
creative 23 concepts motivated a wide range of audiences
most 24 efficiently and effectively. I'm sure there's
always 25 ways that you could be even more efficient and
more

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1 effective.
2 MR. L'ORANGE: Could I have that
answer read 3 back, please.
4 (Record read as follows:
5 "ANSWER: It says that the
6 strategies in creative concepts
7 motivated a wide range of audiences
most 8 efficiently and effectively. I'm sure
9 there's always ways that you could be
10 even more efficient and more
11 effective.")
12 BY MR. L'ORANGE:
13 Q. I showed you yesterday a copy of the
-- what we 14 call the Wave 1 report. Ask you to look at it
for a 15 moment, Defendants 97.
16 Now, my recollection -- and correct me
if I'm 17 wrong -- is your testimony was that you had

skimmed this

18 but not read it thoroughly?

19 A. Yes.

report?

20 Q. Can you tell me when you skimmed the

21 A. No.

22 Q. Has it been within the last year?

23 A. Within the last two years.

page -- it

24 Q. Okay. Let me draw your attention to

both

25 would be Roman numeral 9. They are printed on

386

it says

1 sides. And you'll note at the top of the page,

2 "TCS" -- that would be Tobacco Control Section

--

3 "Funded Community Programs and Statewide Media

4 Campaign," under large A, "Reducing Exposure to

5 Environmental Tobacco Smoke," paren, "ETS,"

close paren.

6 The first headnote indicates in that

first

7 sentence that 89 percent of California adults

and

8 97 percent of 10th grade youth were aware that

9 secondhand smoke disables and kills.

10 Do you see where I'm reading?

11 A. Yes.

of the

12 Q. All right. Based on your supervision

any

13 Prop 10 program for ashers&partners, do you have

14 reason to disagree with that statement at all?

15 A. Based on what?

leadership of the

16 Q. Based on your supervision and

17 Prop 99 program for the Livingston company and

disagree with

18 ashers&partners, do you have any reason to

19 that statement at all?

20 A. Yes.

with it?

21 Q. What are your reasons for disagreeing

22 A. Two reasons.

reach that

23 One, my understanding is the maximum

campaign would

24 could really be achieved with our media

to

25 be 95 percent, so I don't know how we could get

387

1 97 percent, necessarily.

disagreement over

2 And I know there was a lot of

UCSD so --

3 this report and its accuracy between TCS and

of the

4 and I'm not sure where they netted out in terms

5 efficacy of all of these results.

6 Q. Were you contacted by either the State

or the

7 researchers for this report for any input at
all?

8 A. No.

9 Q. Did you forward either a letter or
e-mail or by
10 telephone call and advise the State that you
disagreed

11 with the percentages given in the first
headnote under
12 paragraph A?

13 A. No.

14 Q. Have you discussed your reservations
about the
15 97 percent figure with anyone from the State?

16 A. No. I don't know that I've ever read
it before
17 today.

18 Q. But you were certainly aware of the
issue?

19 A. No. I'm just saying, generally, our
campaign
20 reaches 95 percent of the people. You called
my

21 attention to this paragraph. I read it, and
now I'm

22 saying hm, that's weird.

23 Q. Does the fact that 97 percent have
been found
24 to have an awareness of the disabling or lethal
effect
25 of secondhand smoke indicate that there are
other

388

1 factors at work in the media place apprising
people of
2 the dangers outside of your media program?

3 A. I don't think it indicates that
clearly. I
4 don't think it indicates that, no.

5 Q. Is that one conclusion one could draw
from that
6 figure, that there are other forces at work,
they're

7 apprising people of the same message that
you're putting
8 out in the media?

9 A. I don't know what conclusions people
could draw
10 from looking at it.

11 Q. Well, one of the conclusions that
you've drawn
12 is the 95 percent figure is wrong; correct?

13 A. No.

14 Q. One of my conclusions is that the 95
percent
15 figure is wrong?

16 A. No.

17 Q. Not 95. 97.

18 A. Yes.

19 Q. Let's go back.

20 You do not believe it's an incorrect

figure?

could be

reached

that could

don't know

21 A. No. I believe the 97 percent figure
22 incorrect based on my belief that our campaign
23 95 percent, although there are other factors
24 attribute to a higher level of awareness. I
25 what this number represents.

389

part of

1 Q. Has this report been discussed within
2 asher&partners at any time that you've been a
3 the discussion?

4 A. Yes.

5 Q. Were you -- you were involved in the
6 discussions?

every

7 A. I don't know if I was involved in
8 discussion of this report.

9 Q. You were involved in some?

10 A. Yes.

11 Q. Can you tell me the nature of those
12 discussions, please, what went on.

report to

13 A. I believe that we looked to this

for TCS.

14 develop some strategic planning recommendations

substantiate

15 I believe that we looked to this report to

had a

16 some claims in advertising. So we never really

what

17 discussion about the report in its entirety and

does it

18 does it conclude and what does it say, what

19 mean.

participated

20 Q. Was there any discussion that you

State

21 in where asher&partners wanted to report to the

was

22 its disagreement that the reach of its media

percent of 10th

23 95 percent, yet the researchers found 97

effect of

24 graders were aware of the disabling or lethal

25 environmental tobacco smoke?

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1 A. No.

or anyone

2 Q. Have you confided to Colleen Stevens

reservations about

3 at the Tobacco Control Section your

4 the conclusions reached in this report?

5 A. I didn't say I had reservations.

question.

6 Q. All right. Let me rephrase the

7 Have you discussed with Colleen

Stevens or

percent
today?
the
at the
researchers
smoke
with that
disagree.

8 anyone else in TCS your concerns about the 97
9 figure, or is that something you've arrived at
10 A. It's something I just arrived at -- at
11 moment -- at today.
12 Q. All right.
13 Let me ask you, if you would, to look
14 second half of the sentence wherein the
15 conclude, quote:
16 "A majority of the community
17 opinion leaders and 10th grade youth
18 believe that environmental tobacco
19 is a serious problem, concluding that
20 55 percent of the community opinion
21 leaders and 60 percent of 10th graders
22 held that view."
23 Do you have any reason to disagree
24 conclusion?
25 A. I don't have any reason to agree or

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with anyone
Asher and
percentages
good job on
variety of
smoke.
awareness.
bet- --
grade youth
At
media
good job
media against
in

1 Q. Have you discussed this conclusion
2 at TCS?
3 A. No.
4 Q. Have you discussed it with within
5 Gould?
6 A. No.
7 Q. Would you agree with me, if these
8 prove accurate, ashers&partners did a pretty
9 the Prop 99 reaching adults and youth?
10 A. As we just discussed, there are a
11 things that can lead to awareness of secondhand
12 Ashers&partners is partly responsible for that
13 Q. Would you agree with me you've done a
14 pretty good job in reaching adults and 10th
15 in the state?
16 A. Reaching adults and 10th grade youth.
17 times -- at times during the paid portion of
18 campaign, when it was running, I think we did a
19 reaching adults. And when we were running
20 10th grade youths, I believe we did a good job
21 reaching them as well.

at Roman 22 Q. All right. Now, I'd like you to look
paragraph, 23 numeral 2, page Roman numeral 2 of the last
24 the bottom of the page.
25 A. Okay.

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1 Q. Researchers state, quote:
2 "It should be emphasized that
3 the independent evaluation described
in 4 this report assessed tobacco control
5 program activities that occurred
during 6 fiscal years 1994-'95 and 1995-'97,
7 which represents the lowest point in
8 funding levels for the tobacco control
9 program since its inception," close
10 quote.
11 Do you have any reason to disagree
with that 12 statement at all?
13 A. I don't have any reason to disagree
with this 14 statement at the time that this report was
written.
15 Q. And you testified earlier there have
been ups 16 and downs in funding in the Prop 99 program
during the 17 years that you've supervised the program for
Asher; 18 correct?
19 A. Yes.
20 Q. All right. Now, let me rephrase my
earlier 21 questions.
22 In light of the fact that this report
looks at 23 the time period when the funding was at its
lowest -- 24 A. Hm-hm.
25 Q. -- still, 89 percent of adults and 97
percent

393
1 of 10th graders were reached and understood
that 2 secondhand smoke disables or kills.
3 Now, in light of that, would that not
indicate 4 to you that asher&partners, in conjunction with
other 5 forces in the State, did a pretty good job in
reaching 6 people?
7 A. If those numbers are correct,
asher&partners, 8 together with other efforts and individuals and
9 organizations, has done a good job in reaching
people.
10 Q. All right. Now, some of the

additional efforts

11 which would go beyond media that you're
familiar with
12 could be the county programs administered under
Prop 99
13 through the Department of Health Services, in
the

14 individual counties; correct?

15 A. Yes.

16 Q. Similar to the program, for instance,
you're
17 familiar with in Los Angeles County; true?

18 A. Yes. Yes.

19 Q. And within the individual counties,
there are
20 also competitive grantees who are conducting
antismoking

21 or ETS campaigns, are there not?

22 A. Yes.

23 Q. Okay.

24 Have you worked with any of the
competitive
25 grantees across the state at any time with
respect to

394

1 either media production or providing
information to
2 them?

3 A. Yes.

4 Q. Can you give me an idea as to whom you
worked
5 with?

6 A. No.

7 Q. Can you tell me approximately when?

8 A. No.

9 Q. Let me draw your attention on Exhibit
112 to
10 the last page, and let's skip down to the
middle of the
11 last paragraph.

12 Mr. Schoenfeld says, quote:

13 "We would also like to
14 specifically offer you and the
15 foundation the services of Christine
16 Steele, a senior vice president at
17 asher&partners and the project

director
18 of all of our tobacco education and
19 prevention projects, to consult during
20 the preliminary research phases of
this
21 important project," period, close
quote.

22 Now, basically that's you, is it not?

23 A. Yes.

24 Q. All right.

25 And what he's doing is offering your
services

395

1 to Mr. Wolfe, at least to consult on the media
phase

correct in 2 that was to be funded by MSA funds. Am I
3 that?
offering. I 4 A. I don't -- I don't know what he's
5 don't know.
was going 6 Q. Did he discuss with you what offer he
7 to make with respect to your assistance to Mr.
Wolfe in 8 the preliminary research phases of this
important 9 project?
10 A. It was all very general. And he just
said we 11 should write a letter to Chuck Wolfe and let
him -- 12 remind him who we are in case he doesn't
remember us 13 from the Florida pitch and offer your
assistance in any 14 way to him. So it was not specifically tied to
any 15 specific task or project.
as to 16 Q. Did you have any general understanding
17 what assistance you might be asked to render
Mr. Wolfe? 18 A. Just as someone with a lot of
experience on 19 antismoking media campaigns. They just wanted
to let 20 him know where I was and who I was, if he
wanted any 21 help with anything in the broad sense.
as to 22 Q. Did you have any general understanding
23 what the preliminary research phases of the MSA
project 24 were?
25 A. No.

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1 Q. Mr. Schoenfeld goes on to say, quote,
2 parentheses:
3 "Christine has more experience
4 in strategic development, planning,
and 5 executing media campaigns on tobacco
6 prevention and cessation than any
other 7 single individual in the country,"
8 period, close paren, close quote.
9 Do you have any reason to disagree
with that 10 statement at all?
11 A. No.
12 MR. L'ORANGE: Let me take about three
minutes 13 to get organized, and we'll head into the home
stretch. 14 MR. VANDERET: Okay.
15 (Recess taken.)

record. 16 MR. L'ORANGE: Okay. Back on the
deposed once 17 Q. You told us yesterday you had been
18 before.
19 A. Yes.
20 Q. Can you tell me briefly what that was
about.
21 A. Sun America was in a lawsuit with Sun
Life of 22 Canada over a name issues.
23 Q. Sun America has an affiliation with
Asher, 24 doesn't it?
25 A. They used to be one of our clients.

397
the 1 Q. The deposition had nothing to do with
2 Prop 99 program which you --
3 A. No.
4 Q. You indicated yesterday that you
hadn't really 5 talked to Mr. Silverman at -- is it Western
Media 6 initiative?
7 A. I remember I said they just changed
their 8 name --
9 Q. Right.
10 A. -- and that I don't know the name.
11 Q. Okay. But you had not spoken with him
or seen 12 him recently?
13 A. No. I said I haven't spoken to him
about the 14 Prop 99 campaign, but I have seen him and
spoken to him.
15 Q. Okay. Have you learned or has anyone
told you 16 that Mr. Silverman is working with the
plaintiffs' 17 lawyers in this case?
18 A. No.
19 Q. Were you aware or gain any
understanding that 20 he has created a separate media plan for them
to review 21 and analyze?
22 A. No.
23 Q. Yesterday I asked you whether you had
been 24 contacted by the Preston, Gates & Ellis firm or
the 25 Lexington Law Group, and you indicated, at
least as of

398
1 the deposition yesterday, you had not.
2 Did you get any calls from them or
discuss with 3 them this lawsuit between yesterday and today?
4 A. No.

5 The law firm on top of the subpoena,
that's your
6 firm; right?
7 Q. That's us.
8 A. Yeah, that's the only firm.
9 Q. Okay. Well, you're talking to okay
people.
10 All right.
11 In your testimony yesterday, we had
some
12 discussion about television not always reaching
high
13 income people, recent immigrants, and you
mentioned
14 teens?
15 A. Yes.
16 Q. All right. Now -- and that's with
respect to
17 your media campaign being broadcast over
television.
18 Has Asher done any research as to what
outreach
19 programs may be available to recently arrived
immigrants
20 that deal with antismoking issues, particularly
ETS?
21 A. No.
22 Q. Are you personally aware of any
outreach
23 programs that deal with recently arrived
immigrants that
24 relate information concerning antismoking
messages or
25 ETS?

399

1 A. No.
2 Q. Have you discussed that topic with the
State at
3 all?
4 A. I don't recall.
5 Q. Do you have any understanding as to
whether any
6 of the competitive grantees under the Prop 99
program in
7 California perform an outreach service to
recently
8 arrived immigrants that involve antismoking
messages,
9 including warnings about ETS?
10 A. No, I don't.
11 Q. With respect to teens, do you have any
12 understanding as to whether any of the
competitive
13 grantees in the counties in California handle
programs
14 designed to address antismoking messages and
ETS
15 information specifically directed to teens?
16 A. I don't know.
17 Q. Have you undertaken any independent
18 investigation to determine how many competitive
grantees

19 have programs of the type I just described for
you?
20 A. No, I have not.
21 Q. All right. Do you have any
understanding as to
22 what efforts the private health agencies -- for
23 instance, the American Academy of Pediatrics,
American
24 Cancer Society, American Lung, American Heart
-- what
25 specific programs those agencies have which
target teens

400

1 in terms of antismoking messages or ETS
warnings?
2 A. No.
3 Q. All right. Do you have any
understanding as to
4 what school programs exist, administered by the
5 Department of Education, designed to
familiarize teens
6 with the dangers of smoking and ETS?
7 A. No.
8 Q. Have you reviewed at any time any
textbook that
9 is utilized throughout California which
contains
10 information pertaining to the dangers of
smoking or ETS?
11 A. No.
12 Q. Are you aware that such textbooks
exist?
13 A. No.
14 Q. Are you aware that some textbooks have
an
15 entire chapter devoted to the dangers of
smoking and
16 ETS?
17 A. No.
18 Q. Would you agree with me that that
would be yet
19 another form in which information concerning
the dangers
20 of smoking and ETS can be communicated to teens
in
21 addition to the media messages that you send
out over
22 television?
23 A. I would have to see how it was
produced and
24 what it looked like and --
25 Q. All right.

401

1 Do you have any understanding as to
whether the
2 school districts in the state of California
must have an
3 antismoking policy in the school?
4 A. Yes.
5 Q. Do you have any understanding as to
the

through
address the
of the
Education
been
programs
conclusion
including
Pierce
together with
have been
as to

6 programs administered in the individual schools
7 the California Department of Education that
8 dangers of smoking and ETS?
9 A. Could you say that again.
10 Q. Sure.
11 Do you have any personal understanding
12 types of programs that are administered in the
13 California schools through the Department of
14 that address the dangers of smoking and ETS?
15 A. All I know is that their programs have
16 very ineffective, but I don't know what their
17 are.
18 Q. All right. And is it your personal
19 they have been ineffective?
20 A. From various research that I've read,
21 some of the things I've skimmed in these John
22 reports throughout time, I've ascertained,
23 others, that the school programs against teens
24 largely ineffective.
25 Q. Do you have any personal understanding

402

here, but is
television would
the teen
through
program
the
analysis like
as
programs
Education?
yesterday about

1 why they have been ineffective?
2 A. No.
3 Q. Again, I'm qualifying my ignorance
4 it your belief that an ETS ad placed on
5 be more effective in communicating awareness to
6 population as opposed to a program administered
7 the school system?
8 A. It would depend on the strength of the
9 administered through the school system versus
10 strength of the ad, the show it was placed on,
11 et cetera.
12 Q. Has Asher undertaken any type of
13 that to determine the effectiveness of its ads
14 compared to the effectiveness of the school
15 being administered through the Department of
16 A. No.
17 Q. The materials that -- we talked
18 ads, either radio or television or in the print

or
particular
public,
you have
day.
for use by

19 outdoor medium, that once they have run their
20 period that they're going to be shown to the
21 they revert back to -- I believe you indicated
22 custody of them but the State owns them.
23 Do they go -- do any of them -- long
24 Strike that.
25 Are any of them directed to the TECC

403
Clearing
Primarily
understanding as
order to
looking for a
And the
them a
contacting
how the
CC -- I'm
to
company --

1 other organizations, the Tobacco Education
2 House?
3 A. I think on occasion they have been.
4 now everything is sent to the CDC.
5 Q. And do you have any personal
6 to the procedures one has to go through in
7 procure a copy of one of your ads from the CDC?
8 A. There's a contact at the CDC that the
9 individual contacts, and they say, "We're
10 commercial on this topic. What do you have?"
11 person lets them know, and they probably send
12 tape and then review it.
13 Q. Have you ever availed yourself of
14 CDC to procure a copy of your ad just to see
15 system works?
16 A. No.
17 Q. Do you know anybody who has?
18 A. Like a test of the system?
19 Q. Well, no.
20 Do you know someone who has contacted
21 sorry -- someone who has contacted CDC in order
22 obtain a copy of an ad produced by Asher and
23 or asher&partners?
24 A. Yes.
25 Q. Can you tell me who that was?

404
other
states that

1 A. People at the advertising agencies for
2 states.
3 Q. Okay. Florida, some of the other
4 you --
5 A. Massachusetts.
6 Q. -- that you indicated yesterday?
7 A. Yeah, that I mentioned.

8 Q. Yesterday, you mentioned to us that
you were
9 aware of at least one evaluation that was
performed by a
10 company called IOX?
11 A. Yes.
12 Q. You were not sure of what the fate of
that
13 company was?
14 A. Correct.
15 Q. I can't remember if I asked you, but
do you
16 have a recollection as to the location of the
company
17 when you last knew of it?
18 A. They were in Los Angeles.
19 Q. Was the correct title of the company
the IOX
20 Company, the IOX Corporation?
21 A. I don't know.
22 Q. Wouldn't have street address and
telephone
23 number, would you?
24 Do you remember the date of the
evaluation that
25 you saw?

405

1 A. Between the years of '92 and '94.
Probably
2 1993.
3 Q. And do you have any recollection as to
4 generally how the document was titled?
Evaluation of
5 Prop 99 smoking campaign for the years 1992 to
1994?
6 A. No. I don't recall.
7 Q. Was there a lead author on this study
that you
8 can recollect?
9 A. Yes.
10 Q. Do you remember his name?
11 A. June.
12 Q. Or her name?
13 A. Popham.
14 Q. June?
15 A. P-o-p-h-a-m.
16 Q. Do you have any recollection as to
whether the
17 IOX evaluation or summary was submitted to DHS?
18 A. Yes, it was.
19 Q. And do you know to whom?
20 A. No.
21 Q. Have you ever discussed the IOX study
with
22 anyone at DHS?
23 A. Yes.
24 Q. Can you tell me with whom?
25 A. Colleen Stevens. Dileep Ball. Jackie
Duerr.

406

1 Valerie Quinn. Michael Johnson. John Lloyd.

I
2 believe.
3 Q. Did you ever discuss it with April
Rosler?
4 A. I'm not sure. She may have been in
those
5 meetings.
6 Q. Was it ever discussed with Robin
Shamizu?
7 A. She may have been in these meetings.
8 Q. Carol Russell?
9 A. She may have.
10 Q. In the course of -- let me back up.
11 As the supervisor of the Prop 99
program, as
12 part of your duties, do you review published
literature
13 that may analyze the effects of the program?
14 For instance, you indicated reviewing
a study
15 by John Pierce, the IOX evaluation. Is that
something
16 you customarily do as the supervisor?
17 A. Sometimes I have people review things
for me
18 and summarize it. Sometimes I review things
myself.
19 Q. In the course of your duties with Prop
99, have
20 you ever reviewed a document entitled "Warning
21 California About the Dangers of Environmental
Tobacco
22 Smoke," colon, "The Status of ETS Prevention in
the
23 State," and it would have been published by The
24 Institute for Health Promotion and Disease
Prevention
25 research at the USC communications school, the
Annenberg
407
1 School?
2 A. I don't recall reviewing that.
3 Q. Do you have any understanding that
anybody who
4 works for you has reviewed it?
5 A. No, I don't know.
6 Q. Has anyone -- your ethnic
subcontractors, the
7 State -- ever made a complaint to you that the
8 antismoking or ETS messages that your program
delivers
9 are based too much in English and there has not
been
10 enough attention paid to other languages?
11 A. No one has ever said there's been too
large of
12 an English campaign. Our ethnic subcontractors
have
13 over the years expressed a desire for more
money for
14 their effort.
15 Q. Have there -- would you characterize

the
complaint?
complaints
those
allocation
voiced
did the

16 expression of the desire for more money as a
17 Am I wording that too strongly?
18 A. Over the years there have been some
19 from the ethnic subcontractors.
20 Q. What has been the State's response to
21 complaints where Colleen Stevens has done the
22 to the ethnic subcontractors?
23 A. Well, the years the complaints were
24 weren't in these last couple of years where she
25 allocations.

408
beliefs since
that they
the
Colleen Stevens
that, as
too little
you?
voiced
doing the
complaints voiced
the ethnic
the

1 Q. Is it the ethnic subcontractors'
2 Colleen Stevens has been doing the allocations
3 have gotten sufficient moneys to communicate
4 warnings they wished to communicate?
5 A. I don't know what their beliefs are.
6 Q. Has anyone during the time that
7 has been doing the allocations had complaints
8 an ethnic subcontractor, they were receiving
9 money?
10 A. I don't know.
11 Q. Have they voiced any complaints to
12 A. No.
13 Q. Has Miss Stevens told you they have
14 complaints to her?
15 A. No.
16 Q. Now, during the time that you were
17 allocations, I gather there were some
18 to you about the amounts of money directed to
19 subcontractors?
20 A. Yes.
21 Q. Who were the contractors who raised
22 complaints?
23 A. Carol H. Williams.
24 Q. Anyone else?
25 A. No.

409
messages are

1 Q. All right. Now, Miss Williams's
2 delivered in English, are they not?
3 A. Yes.
4 Q. I'm sorry.

5 A. I was just saying she's the
African-American
6 agency.
7 Q. Right. Right. And unlike Imada Wong,
Carol H.
8 Williams is really Carol H. Williams; right?
9 A. Correct.
10 Q. All right.
11 Now, her messages --
12 MR. VANDERET: Imada Wong is really
Imada Wong,
13 too.
14 MR. L'ORANGE: Okay.
15 THE WITNESS: It's Bill Imada and
somebody
16 Wong.
17 MR. L'ORANGE: Oh, all right. Okay.
18 MR. LERNER: Kind of like Allen,
Matkins.
19 MR. L'ORANGE: There really is an
Allen, and
20 there really is a Matkins.
21 MR. VANDERET: There is a Mr. Allen,
and there
22 is a Mr. Matkins.
23 BY MR. L'ORANGE:
24 Q. Now, Miss Williams's messages are
delivered in
25 English; right?

410

1 A. Yes.
2 Q. Her complaint was she wanted more
money to
3 increase the messages that were delivered, the
4 frequency?
5 A. She wanted more money for her
advertising
6 effort.
7 Q. Has anyone from the State, any of the
8 subcontractors, anybody within Asher ever
voiced the
9 complaint that your Prop 99 campaign, as
administered by
10 you, is really designed almost exclusively for
adults?
11 A. No.
12 Q. Do you agree with that proposition at
all?
13 A. Restate the proposition.
14 Q. That the Prop 99 program, as
administered by
15 you, is designed almost exclusively for adults?
16 A. The Prop 99 program currently is
designed for
17 adults 18-plus. In the past, it's been
designed for
18 teens and adults and for young children, teens
and
19 adults.
20 Q. Is there a reason why the current
iteration of
21 the program is designed for adults 18 and

older?

22 A. I told you that yesterday.

23 Q. I'm sorry. We covered 286 pages,
believe it or

24 not.

25 A. We did?

411

1 Q. Yesterday we were, as Jim Carrey would
say,

2 smoking. No pun intended. I just don't

recollect.

3 A. Okay. So now let me recollect your
question.

4 MR. L'ORANGE: Could you read it back,
please,

5 'cause I can't either.

6 (Record read as follows:

7 "QUESTION: Is there a reason

8 why the current iteration of the
program

9 is designed for adults 18 and older?")

10 THE WITNESS: Because of the American
Legacy

11 Foundation's advertising effort will be
directed at

12 teens.

13 BY MR. L'ORANGE:

14 Q. I'm sorry. I do remember that now.
Okay.

15 And the decision was made that, under
your

16 program, the moneys that normally would be
directed to

17 teens would now be directed to adults because
Prop 10

18 was going -- or the American Legacy Foundation
would

19 address the issue with teens?

20 A. Yes.

21 Q. All right. What I would like to do is
-- why

22 don't we go off the record a minute.

23 (Discussion held off the record.)

24 (The audiotape referred to was

25 marked by the C.S.R. as Defendants'

412

1 Exhibit 113 for identification and
2 attached to and made a part of this
3 deposition.)

4 (The audiotape was played.)

5 BY MR. L'ORANGE:

6 Q. Now, Miss Steele, you've had a chance
to listen

7 to the radio spots that are contained on

8 Defendants' 113.

9 Do you recognize the radio spots that
you've